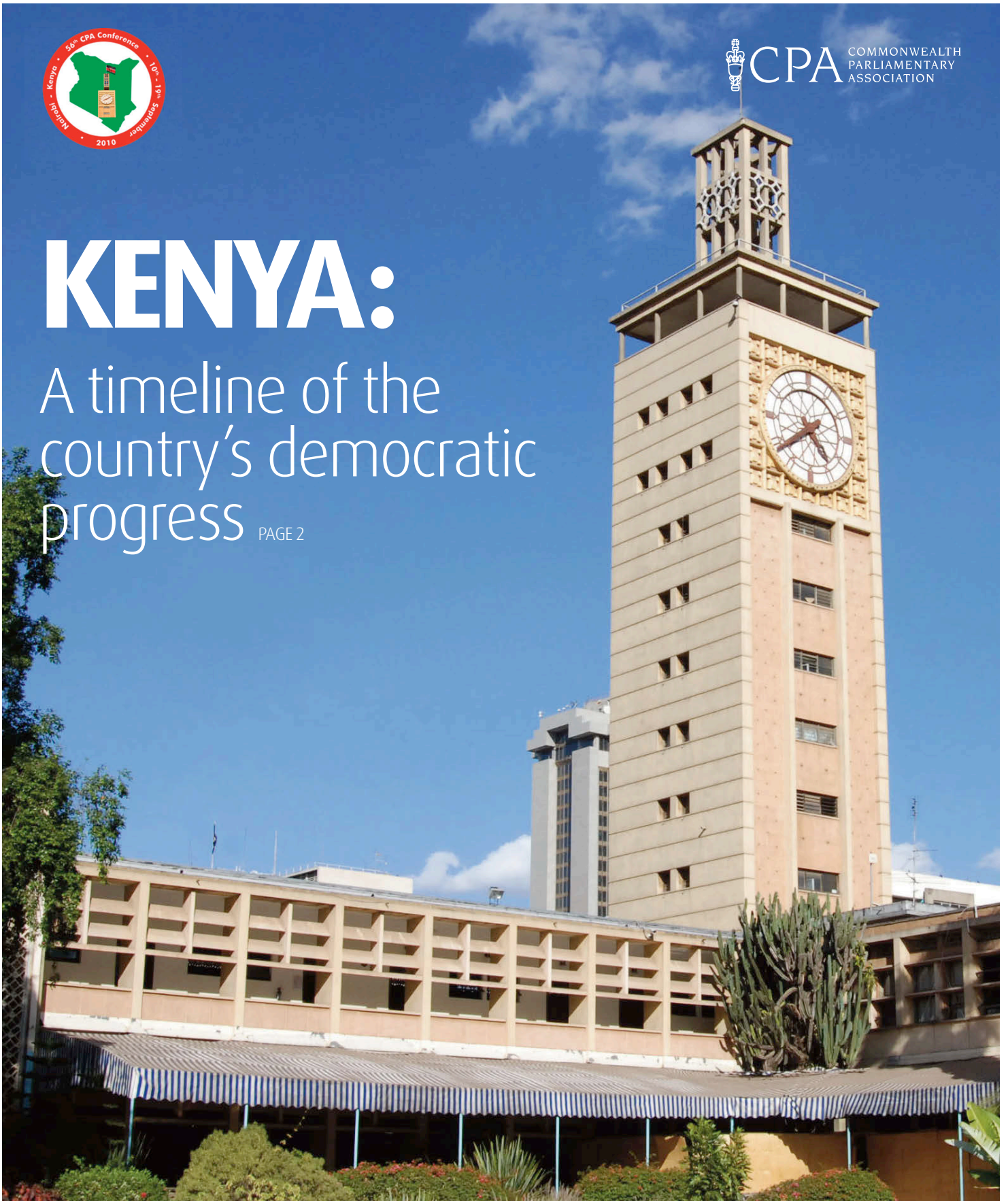




# KENYA:

A timeline of the  
country's democratic  
progress PAGE 2



## PLUS ▶

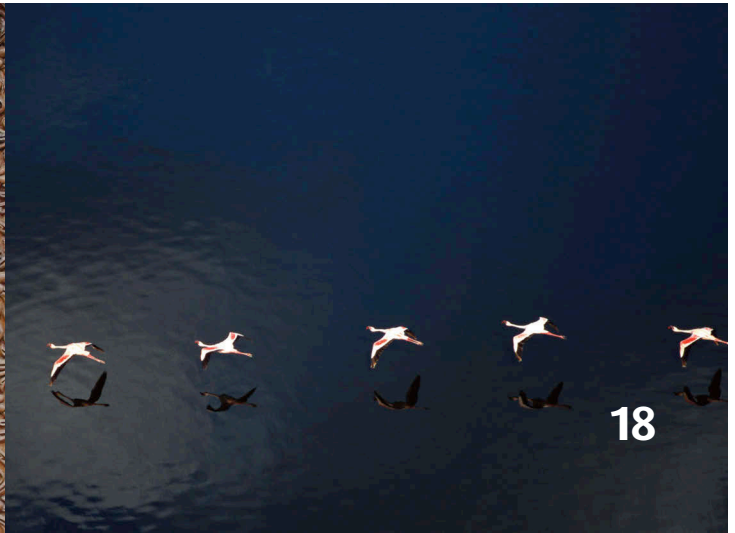
Kenya's new  
constitution: "For the  
welfare and just  
government of men"  
PAGE 6

Challenges of running  
a coalition  
government in Kenya  
PAGE 10

Climate change  
agenda in Kenya  
PAGE 14

How to increase  
female  
representation in  
Parliament  
PAGE 18





## A Profile on the Parliament of Kenya, host to the 56th CPA Commonwealth Parliamentary Conference

### **The Parliament of Kenya: a history of democratic progress**

Hon. Kenneth Marende, MP.

**Page 2**

### **Kenya's new constitution: "For the welfare and just government of men"**

H.E. Hon. Kalonzo Musyoka, MP.

**Page 6**

### **Challenges of running a Coalition government in Kenya**

Hon. Musaila Mudavadi, MP.

**Page 10**

### **Climate change agenda in Kenya**

Prof. the Hon. Dr Margaret Kamar, MP

**Page 14**

### **How to increase female representation in Parliament**

Hon. Amina Abdallah, MP

**Page 18**

### **The Kenyan MP: Balancing many roles and functions in the national interest**

Hon. David Musila, MP

**Page 24**

### **Alternative energy development in Kenya**

Prof. the Hon. Dr Margaret Kamar, MP

**Page 28**

### **Expanding Parliament's role in national diplomacy**

Hon. Gitobu Imanyara, MP

**Page 32**

### **Making the Coalition work in Parliament**

Mr Patrick G. Gichohi

**Page 36**

### **Developing Kenya's economy in the current global financial situation**

Mr P.C. Owino Omolo

**Page 40**

### **Kenya's Position on trade and its long term agricultural policy goals**

Department of Research, National Assembly of Kenya

**Page 44**



*Promoting sustainable forest management*



# THE PARLIAMENT OF KENYA: A HISTORY OF DEMOCRATIC PROGRESS

With more than a century of development from its establishment as a colonial Council, Kenya's National Assembly has evolved into a modern Parliament with a strong democratic tradition and a readiness to reform its practices to meet the needs of the nation, writes its Speaker.

## Hon. Kenneth Marende, MP, in Nairobi.

Mr Marende is the Speaker of the Kenya National Assembly and the 2010 President of the Commonwealth Parliamentary Association, having served as its Vice-President in 2009. He chairs the Assembly's Parliamentary Service Commission, House Business Committee, Standing Orders Committee, Powers and Privileges Committee, Speaker's Committee and Pensions Committee. Prior to being elected Speaker in 2008, he was a National Rainbow Coalition MP from 2002 to 2007 and was re-elected in 2007 for the Orange Democratic Movement. He has been an Advocate of the High Court of Kenya since 1979.

The history of the Kenyan Parliament is an example of steady progress from colonial autocracy on a true democratic trajectory. Legislation by Parliament in Kenya began some 104 years ago. Prior to that, it had wholly been done in the United Kingdom and was conveyed as royal instructions commonly termed Orders-in-Council. Locally, they were implemented in the period 1885 to 1900 by Sir A. Harding who served as Acting Agent and who on 1 July 1895 declared Kenya an East Africa Protectorate. The first independent Commissioner and Consular-General for the East Africa Protectorate was Sir Charles Elliot who was appointed in 1900.

In 1902, European settlers, who had come as farmers, formed a loose political-cum-welfare group, the Colonists Association.

Through this association, which may be considered the first political party in Kenya, the European settlers started agitating for representation in the governance of the colony by laying claim to the ancient liberties of every British



Hon. Kenneth Marende, MP

citizen, that is: no taxation without representation. They then remitted a petition to the Secretary of State for Colonies in 1905 demanding representation in the administration of Kenya.

The response of the British government was signed in a 1906 Order-in-Council and an Executive Council chaired by the Governor was established to assist the latter in the administration of Kenya. Provision was also made for the setting up of a Legislative Council.

First Bills and committees

The Executive Council legislated until mid-August 1907

and handed over to the Legislative Council (LEGCO) which held its first sitting on 17 August 1907. The all-European LEGCO was composed of the Governor, Sir James Hayes Sadler as Chair, and seven other Members, four ex-officio (two nominated unofficial) and three officials who were nominated by the Governor. Among the first business transacted by LEGCO on 17 August were two Bills:

- A Bill for the abolition of legal status for slaves and slavery throughout the East Africa Protectorate which was passed by the Council; and
- A Bill for the regulation of the sale of intoxicating liquor in the East Africa Protectorate. This was not passed but instead committed to a committee of the Council which could be the first recorded formation of select committees by the Legislature.

Committees have steadily increased and currently there are



Left: The entrance to the National Assembly building;  
Below: The Speaker's Chair in the Old Chamber.



31 committees comprised of seven housekeeping, three watchdog or investigatory, 12 departmental or portfolio, six other committees and three ad hoc committees.

### **Debut of elections and Africans on LEGCO**

In 1919, LEGCO enacted the Legislative Council Elections Ordinance which provided for the election of 11 Europeans and the

splitting of the East Africa Protectorate into 11 constituencies. In 1924, the Secretary of State issued an amendment to the 1919 royal instructions providing for the election of five Indians to represent



the Indian community and one Arab to represent the Arab community.

It was not until October 1944 that Mr Eliud Mathu was nominated as the first African representative to LEGCO where he served continuously until 1957 when he lost in the first election of African Members to LEGCO.

Hitherto, African interests in LEGCO were represented by their colonial spiritual guides, the European clergymen.

In 1954, the nomination of African representatives to the LEGCO was increased to six. Despite this increase, the Africans were unhappy that their LEGCO representatives were nominated by the Europeans and this led to the appointment of a commission of inquiry (the Couetts Commission) to look into ways in which Africans could elect their representatives. The recommendations of the commission led to an amendment to the Elections Ordinance to effect the election of eight African representatives from eight electoral areas, with the first elections taking place in March 1957.

### Milestones in constitution reform

Constitutional changes began in 1954 with the introduction of the Lyttelton constitution to replace the 1922 constitution. The Lyttelton constitution introduced a Council of Ministers and increased the nomination of African representatives to six. Following the results of the first election of African Members, none accepted office in government and in order to resolve the deadlock, the Secretary of State for the Colonies, Rt Hon. Alan Lennox-Boyd came to Nairobi and outlined constitutional changes. The Lennox-Boyd constitution was created which increased the African seats by six and made provisions for 12 specially elected Members to be chosen by LEGCO.

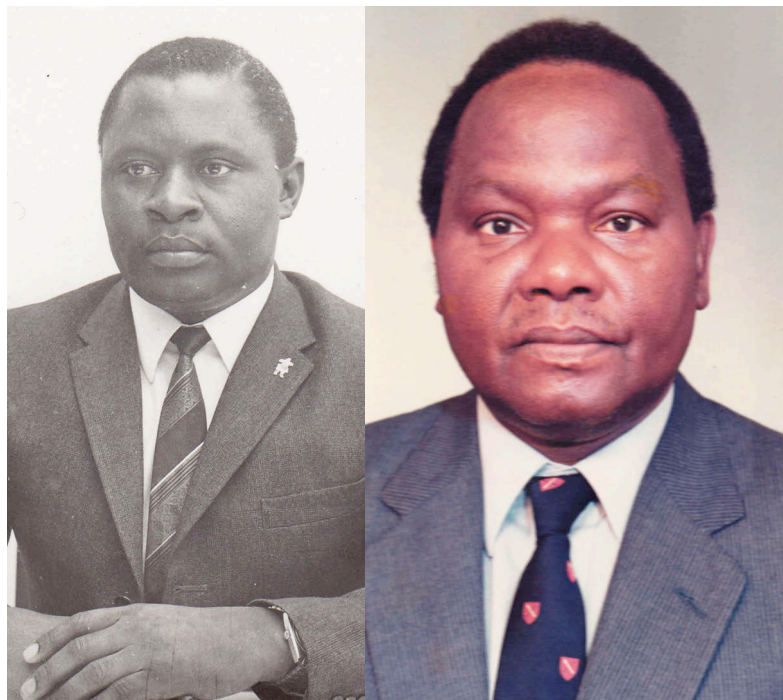
Major changes to the Lennox-

Boyd constitution in the first Lancaster House constitutional conference in 1960 created the Macleod constitution in which the LEGCO seats were increased to 65, with 33 set aside for Africans. The second Lancaster conference held in 1962 created the following changes:

- A bicameral Legislature elected by common adult suffrage;
- A lower House (House of Representatives) with 117 Members from single-Member constituencies, and 12 Specially elected Members picked by the House of Representatives sitting as an electoral college;
- An upper House (Senate) comprised of one Member from each of the 41 districts – with special powers in respect to Bills to amend the constitution;
- A strong and effective central government, responsible to "the National Assembly";
- Regional Assemblies in the seven regions to ensure maximum decentralization of powers of government, and
- Constitutional amendments requiring a majority of 75 per cent of each House.

A final constitutional review was held in February 1963 at which an agreement was reached for the independence of Kenya which was effected on 1 June 1963. At the end of 1966, the two Houses were merged to form a unicameral House – the National Assembly. The 41 Senators were accommodated into the National Assembly by the creation of an additional seat in each of the 41 administrative districts they had previously represented in the Senate. The 12 Specially Elected Members in the House of Representatives continued to serve in the same capacity.

Kenyan parliamentary representation has gradually



Above: Hon. J.M. Shikuku (left) and the first Kenyan President of the CPA, Hon. F.M.G. Mati, MP (right).

increased to the current 224 Members – 210 elected, 12 nominated and 2 ex-officio Members (the Speaker and the Attorney-General).

**“...the history, failures and successes of Kenya are greatly intertwined with the calibre and profile of successive Parliaments since independence.”**

### Moving to multiparty politics and committees

Since 1957, elections in Kenya have used the principal of universal

suffrage or "one person, one vote". The first session of the first Parliament of independent Kenya (1963-69) was a multiparty Parliament convened in 1963 with most pioneering Parliamentarians coming from the Kenya African National Union (KANU) and Kenya African Democratic Union (KADU) parties.

Competitive elections slowly disappeared as various parties were persuaded to join KANU, leading to a de facto one-party state in 1969 with Mzee Jomo Kenyatta as the President and Head of State. This was further reaffirmed in a constitutional amendment in 1982 making Kenya a de jure single-party state. An amendment of the constitution in December 1991, however, restored multipartyism in Kenya.

The first recorded select committee was formed in 1907 when one of the first Bills of LEGCO was committed to a committee of the Council.



Prior to 1998, with the exception of the Public Accounts and Public Investments Committees, oversight committees were dormant and submitted relatively few reports to the House. During the eighth Parliament (1997-2002), departmental committees took a more aggressive role and by the end of 2001, the initiative for policy overview had shifted to parliamentary committees and this vibrant committee system no doubt boosted the Parliament's relevance in its role of legislative oversight.

### A Parliament independent of the executive

The struggle for parliamentary independence began way back in 1970 when Hon. Jean Marie Seroney introduced a motion for the Kenya National Assembly to be a self-accounting unit independent of the government Ministry which hitherto was under the control of the Office of the President (OP). This motion was passed leading to the creation of a budget vote specifically for the National Assembly. On 9 June 1993, Hon. Martin Shikuku brought a motion for the establishment of a Parliamentary Service Commission (PSC) to manage parliamentary affairs in line with separation of powers. Though the motion was passed, the government did not implement this resolution.

Hon. Peter Oloo Aringo followed up on Mr Shikuku's efforts by introducing a motion on the establishment of a PSC which included the government taking immediate steps including the necessary amendments of the constitution to incorporate the PSC. After passage, on 12 May 1999 he introduced the Constitution of Kenya (Amendment) Bill to amend provisions of sections 45 and 107 to provide for the establishment of the PSC. The Constitution of Kenya (Amendment) Act No. 3 of 1999 which came to effect on 19 November 1999 thus finally led to

the independence of Parliament by creating the PSC.

The Parliamentary Service Act No. 10, 2000, was also enacted to create the Parliamentary Service as a constitutional body independent of the Civil Service. Previously, the National Assembly used to be a Department in the Office of the President which controlled all parliamentary activities, its budget and staffing.

The PSC comprises of 10 Backbench Members and is chaired by the Speaker with the Clerk as the Secretary. Its mission is: "To facilitate the Members of Parliament to efficiently and effectively fulfil the constitutional function in a representative system of government by holding and ensuring the autonomous status of the Parliament in its corporate relationship with other arms of the government."

The Parliamentary Service comprises of the Clerk as the Head and staff under various directorates and departments.

### The Speaker's Office

Kenya has had seven Speakers since independence: Sir Humphrey Slade (1963 – 1969) as Speaker of the House of Representatives, Hon. Timothy M. Chokwe (1963–1966) as Speaker of the Senate, Hon. Fred Mati (1970–1987), Hon. Moses Keino (1988–1990), Hon. Prof. Jonathan Ng'eno (1991–1992) and Hon. Francis Kausai Xavier Ole Kaparo (1993–2007). I am the seventh Speaker, having occupied the Chair since 2008.

Kenya's Speaker is the Presiding Officer of the National Assembly and just like my counterparts from other jurisdictions, I have the weighty task of presiding over plenary sessions while granting a fair opportunity for all Members to contribute.

### Key reform initiatives in the current Parliament

The 10th Parliament has made



The Coat of Arms in the National Assembly.

major reforms whose aim is to improve representation in the country. These reforms included the revision of the Standing Orders and consequent adoption of new ones on 10 December 2008 which created new rules such as:

- Live broadcasting of plenary sessions which has enhanced public outreach;
- Opening up of parliamentary committees to the media and the public;
- Creation of the Prime Minister's question time every Wednesday afternoon at 3.45 p.m.;
- Scrutiny of financial estimates by departmental committees after tabling by the Minister for Finance;
- Introduction of new committees such as the Implementation Committee and Equal Opportunity Committee, and
- Creation of the budget and legal departments to complement the research department in terms of budget and legal analysis.

The grand coalition government was formed as a result of the power-sharing agreement between President Mwai Kibaki and Opposition Leader Raila Odinga on 28

February 2008 after the 2007 disputed elections.

It came into full effect in April 2008 after the signing of the National Accord and Reconciliation Act which temporarily established the offices of Prime Minister and two Deputy Prime Ministers.

The Act outlines the management of the coalition government and the functions of the Prime Minister who co-ordinates and supervises government Ministries.

### Conclusion

The Parliament of Kenya has undergone great reforms to ensure that democratic principles and values are upheld. This struggle continues.

The 10th Parliament has so far worked well within its mandate.

Nevertheless, the history, failures and successes of Kenya are greatly intertwined with the calibre and profile of successive Parliaments since independence.

The 10th Parliament, which is now in its mid-term, may go down in history as the most reformist, especially if a new dawn in Kenya's governance is realized through the new constitution that the House passed in April 2010 for onward transmission to – and ultimately approval by – the August referendum.



# KENYA'S NEW CONSTITUTION: "FOR THE WELFARE AND JUST GOVERNMENT OF MEN"

In August, Kenyans voted by a two-to-one margin for a new constitution which the country's Vice-President says will usher in a new age of more democratic, stable and effective governance.



## H.E. Hon. Kalonzo Musyoka, MP, in Nairobi.

Mr Musyoka is the Vice-President of the Republic of Kenya, Leader of Government Business in Parliament and Minister for Home Affairs. A lawyer who has been a Member of the National Assembly for 25 years, he is the Leader of the Orange Democratic Movement-Kenya.

Kenya's 10th Parliament is facing a packed legislative agenda after Kenyans ratified a new constitution at the 4 August national referendum.

I lack the words to express the depth of emotion I felt and continue to feel at the enormity of what we, the Kenyan people, achieved on that day. National moments do not come any more special. What can beat the palpable feeling of hope and renewal that swept across Kenya on Thursday 5 August when it dawned on us just what we had managed to achieve?

We had sought a new constitution for over two decades without success. In 2005 during a similar process the people of

Kenya chose to reject the draft constitution.

We have lived, nay suffered, under the pre-independence constitution negotiated in England with colonial influence. Subsequent alterations by post-independence leaders weakened our institutions and slowed down the uptake of democratic values and advancement of our society.

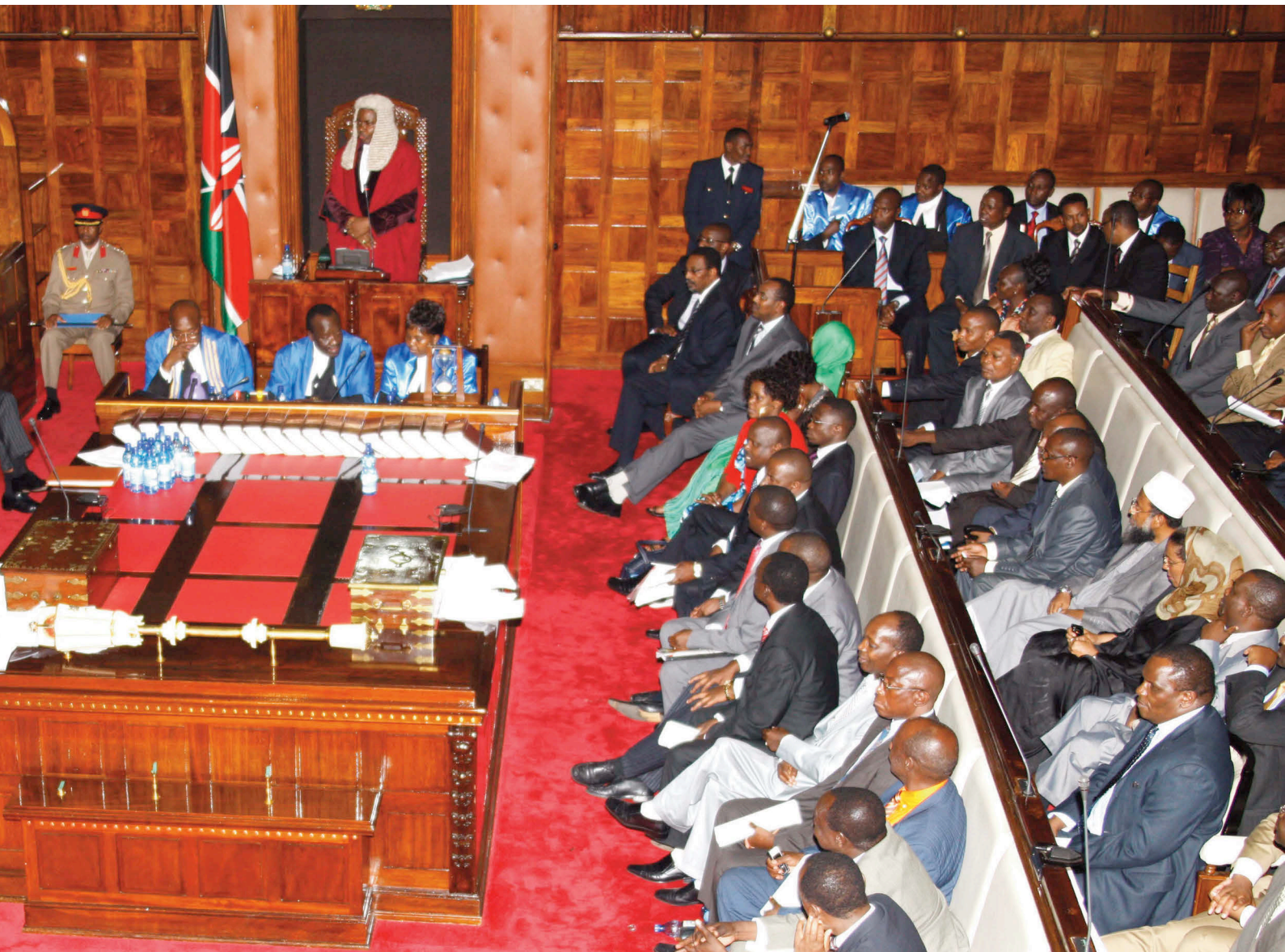
The post-election violence of early 2008 breathed new life into our search for strong governance institutions built on durable values. Several reform institutions were created by the Kenyan National Assembly and it is that impetus that culminated in the new constitution.



**H.E. Hon. Kalonzo Musyoka MP.**

After 2008, the price of poor governance and weak institutions became too clear and dear; it was one we could not bear any longer. Our structural deficiencies had to go; we needed to breathe life into





our democracy; change instantly became the No. 1 item on our national to-do list.

### **A pure presidential system**

Change has now arrived.

The constitution we ratified completely transforms the way Kenya is governed. It seeks to right the mistakes of our youth as a nation in the management of our resources and other affairs. It gives us a fresh start.

The new constitution provides for a presidential system of government much like the American system. The President in the new order, unlike the present arrangement, will no longer be a Member of Parliament. This is just

one of the ways the new laws establish the independence and effective separation of powers between the executive and the Legislature.

Another marked departure from the old law is the appointment of Ministers, to be known as Secretaries in the new law, from outside Parliament. This allows Parliament to focus on its legislative role and the executive that of administration. Any Member of the Legislature appointed to the cabinet must resign his or her seat in either the National Assembly or Senate.

Under the new constitution, the Legislature is to be bicameral with the National Assembly and Senate

having a combined membership of 416.

As part of the checks and balances, the Legislature will have the power to vet and approve key presidential appointments, including cabinet Secretaries, judges and top senior servants. This is a drastic departure from the present scenario where the President's appointments are subject to no oversight whatsoever.

### **Political and economic power to the regional governments**

Devolution is yet another enormous and transformative aspect of Kenya's new law. It provides for the devolution of

**Members in the old Chamber of the House while the new Chamber was being refurbished.**



power and resources from the central government to the grassroots. It creates 47 new regions – to be known as counties – that will receive 15 per cent of national revenue every year for development.

Under the previous order all resources were allocated and managed by the central government. This led to the skewed allocation of these resources for political reasons, leaving certain areas of our country greatly underdeveloped.

The new constitution seeks to promote equity in the distribution of resources across all regions and provide citizens with the opportunity to develop solutions tailor made for their needs at the county level.

Each county will be administered by a Governor assisted by an Assembly and a County Executive Committee. Each county will elect one Member to the Senate to represent and protect its interests.

The Senate will participate in the allocation of resources to the counties. It will also have oversight, including financial, over counties and protect their interests.

Legislation affecting counties will require passage in both Chambers to become law and, in case of a conflict, a mediation committee comprising both the National Assembly and the Senate shall be formed.

## **Stronger democratic and social rights**

There are certain privileges that shall accrue only to one House, for instance financial legislation can only emanate from the National Assembly and not the Senate.

The bicameral feature returns to Kenya after nearly five decades of a single Chamber. Construction and refurbishment is already underway to remodel existing facilities in order to cater for the new dispensation.

The last and certainly not least of the improvements to the



Legislature under the new constitution is the parliamentary authority to impeach the President of the Republic and/or his or her Deputy by a vote of the Senate.

It also gives the Legislature power to control its calendar. The old constitution provided that whenever Parliament impeached the President, it too was dissolved. The Head of State also controlled its calendar.

The new law contains a much broader Bill of Rights than Kenya's old constitution. The new law introduces social rights such as the right to decent housing, health care, food, water and basic education, in addition to a comprehensive list of individual rights and freedoms.

Kenyans living abroad have for a long time sought to give to their children born outside the country

Kenyan citizenship as well as that of whatever country they reside. The new law gives them that opportunity since it provides for dual citizenship, a welcome move for Kenyans in the diaspora.

The marginalization of certain segments of society is a long-standing complaint in Kenya with women, youth and disabled people affected. The new law provides for the participation of all these groups



renaissance. The transition from the old order to the new demands a slew of new laws. Over 50 Bills must be debated and passed by Parliament.

To make things more interesting, the transition process is driven by a rather strict timetable. Failure to pass certain legislation in time will mean the automatic dissolution of Parliament prompting fresh elections. However, it allows Parliament a window to delay enactment of a law once by up to one year before the dissolution option is taken.

The national cohesion I see around Kenya now and the political unity of purpose I feel among Members of Parliament, the cabinet and the people must not wear off because the job is not yet done.

This is an incredible moment for my country, my Parliament and my people. It is exactly like the words of scriptures: "When I was a child my speech, feelings and thinking were that of a child; but now that I am a man, I have no more use for childish ways." Kenya no longer has any use for childish ways; our youth is behind us, maturity, stability and prosperity beckon us yonder, and the men and women of this 10th Parliament are the ones to lead our people on this new path.

Above the entrance to our debating Chamber in Nairobi, the following words are prominently emblazoned: For the welfare and just government of men. I have never felt equal to the spirit and letter of the aspiration and duty represented by those words despite walking through the entrance for a quarter of a century now.

The words "Honourable Member" in Kenya now come with substance and less tapestry. The 10th Parliament and the present generation of Kenyans leave a great legacy for Parliaments and generations to come after us.

in governance by allocating them special seats in both Chambers of Parliament and county governments.

**Reforming the judiciary**

Under the new constitution, the judiciary is also vastly transformed. Kenya will for the first time have a Supreme Court, whose President shall be the nation's Chief Justice.

As mentioned earlier, all High Court judges, judges of the Court of Appeal and judges of the Supreme Court, including the Chief Justice, will undergo parliamentary scrutiny after nomination by the President.

The Supreme Court will have exclusive jurisdiction to hear petitions arising from presidential elections and must dispose of them within 21 days.

**The new Chamber of the House which is currently being refurbished.**

**The transformation now begins**

Despite all these benefits, and as I noted initially, plenty remains to be done to complete this national



# CHALLENGES OF RUNNING A COALITION GOVERNMENT IN KENYA

Kenya's coalition of "the desperate unwilling" has led to partisan stresses and strains both between and within parties; but one of Kenya's two Deputy Prime Ministers, who was one of the architects of the coalition, says it is working so far because all of the parties – and all Kenyans – cannot face the alternative.

## Hon. Musalia Mudavadi, MP, in Nairobi.

Mr Mudavadi is Kenya's Deputy Prime Minister and Minister for Local Government. An economist, he was first elected to the National Assembly in 1989, is a former Vice-President and has held various ministerial portfolios. He is now a Member of the Orange Democratic Movement.

Following the announcement of the results of the 2007 presidential elections, violence broke out in several parts of the country, spreading to six out of eight provinces and leading to the deaths of over 1,300 people in the next six weeks and displacement of 663,921. What sparked the political inferno was the feeling that though voters had done their duty, there was an element of fiddling with tallying of presidential results to give advantage to the incumbent.

The violence ebbed after mediation by the African Union (AU) Panel of African Eminent Personalities of former United Nations Secretary-General H.E. Kofi Annan, former Tanzania President H.E. Benjamin Mkapa and First lady of South Africa Madam Graca Machel. The trio



Hon. Musalia Mudavadi, MP

negotiated the signing of the Kenya National Dialogue and Reconciliation Agreement (National Accord) between Raila Odinga for the Orange Democratic Movement (ODM) and Mwai Kibaki for affiliates of the Party of National Unity (PNU).

The National Accord in particular provided for an equal

power-sharing formula under "Agreement on the Principles of Partnership of the Coalition government". This was a political mechanism for stabilizing the country as neither party could effectively govern alone after the polls fiasco and mayhem. The Agreement led to the enactment of the National Accord and Reconciliation Act of 2008, which effectively established a coalition government. The importance of the National Accord is in its unique provision for coalition government experiment hitherto not experienced in Africa.

The National Accord spelt out actions to end the crisis and reconstruct the country. Among others, the parties agreed to "real power sharing" to begin the healing and reconciliation process. The main agenda of the coalition



government would be to carry out major reforms buttressed by a comprehensive constitutional review.

I was first elected to Parliament in 1989 and have served in six cabinet portfolios including a short

implementation of power-sharing in the context of the rationale which led to the formation of a coalition government?

### Tenets of power-sharing

Ordinarily, power-sharing is usually

of the crisis and prevent its recurrence.

For power-sharing between warring and suspicious coalition partners to be effective, irrevocable arrangements in which power is shared have to be adopted to

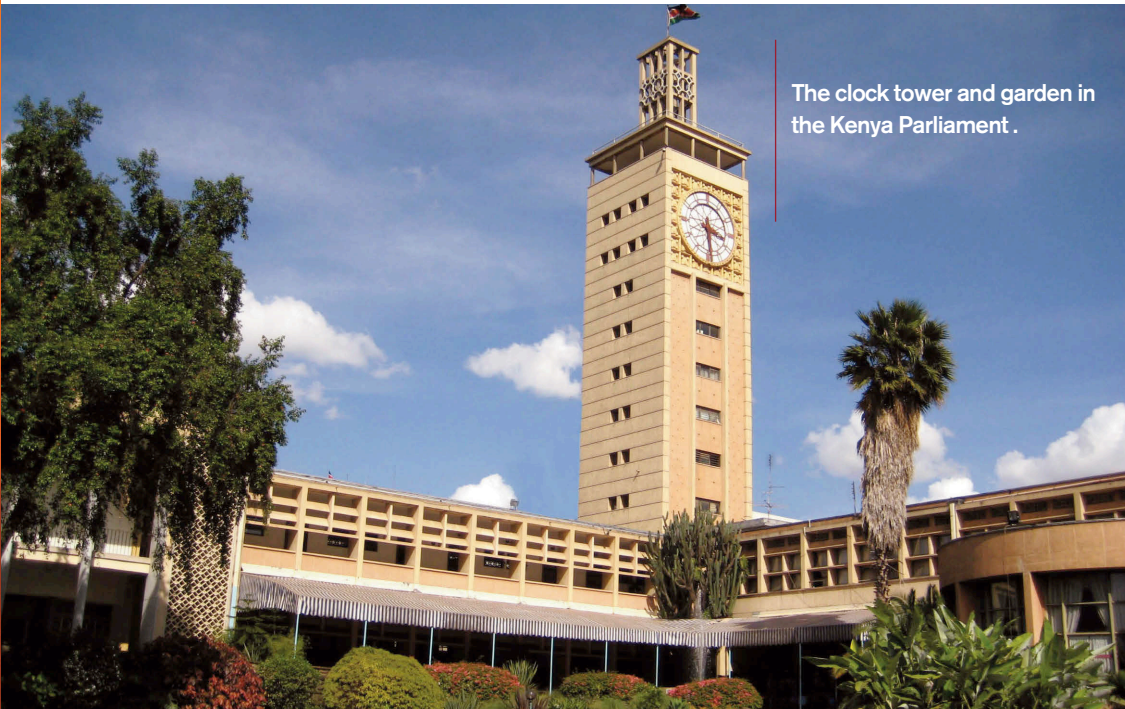
threat for society to relapse into the chaotic violence that a coalition like Kenya's was trying to stem. In truth, the tensions that have griped the ODM-PNU coalition have been so tenuous that it is the reliance of Kenyans – and hope for a new beginning – that has ensured we continue to soldier on.

Our coalition has, again, been largely maintained through the disposition of the two principals – President Kibaki and Prime Minister Raila. The usual maintenance of a coalition through creation of structured mechanisms for building consensus and general consultations to ensure that relevant policies, laws and reforms have bi-partisan support have been haphazard, and at times sabotaged. For instance, an agreement between the parties to spell out the mode of operation and interaction never saw the light of day. Instead, we have operated as if we are one entity, despite obvious frailty and fissures.

Kenya's Grand Coalition government was formed not as an end in itself but as a means to an end – carrying out reforms in areas including those that had led to the 2007 post-election violence. These reforms would be wide ranging to prevent the future recurrence of inter-communal violence prompted by disharmony in the social, economic and political equilibrium. How then have we managed the implementation of power-sharing under the life of the coalition government?

### Power-sharing in the coalition

The National Accord provided for the Prime Minister's position to "supervise and co-ordinate execution of the functions of and affairs of the government" as an "equal" partner or "co-principal" in the running of the government with the President. The Prime Minister would be an elected Member of the National Assembly and the Parliamentary Leader of the largest party in the National



The clock tower and garden in the Kenya Parliament.

stint as Vice-President of the Republic. In my parliamentary career, I have served as the Deputy and Leader of Government Business. I was the running mate to the current Prime Minister, Rt Hon. Raila Odinga, under the ODM in the 2007 elections, and retain the position of the Deputy Party Leader. In the thick of the disputed elections announced by the then Electoral Commission of Kenya (ECK) and the crisis that followed, I was chosen by the ODM to lead our team into the Kofi Annan-led mediation – what became known as the "Serena Talks". I now serve as the Deputy Prime Minister and Minister for Local Government, and I am still a member of the "Serena" National Accord implementation mechanism.

How has this unique experiment in coalition government in Africa, born out of crisis, worked in Kenya, especially in the

recommended as a mechanism for promoting stability in deeply fragmented societies. In most cases, it is borne out of normal electoral processes where one political party is unable to garner a majority to govern on its own. In most democracies, such coalitions are provided for in the constitution. These are usually "coalitions of the willing".

Ours has been unique in that it brought together "the desperate unwilling" into a "transitional government" with a specific mandate and timeframe. In terms of constitutionality, one could say the current coalition government "forced" itself into the constitution. Conceptually, a coalition is formed for the purpose of unifying all groups to protect and promote national interests.

Ours had one overriding national interest – reform – to address the fundamental causes

guarantee stability of the coalition. This then is guaranteed by political will to compromise, consult and negotiate as key elements of sustainability. Unity of purpose in agenda-setting for mandate fulfilment that transcends ethnic and personal differences is critical in fragile coalitions as has been the case in Kenya. Trust between the coalition partners and commitment to set policy become the driving force of a "transitional coalition" that is Kenya's.

However, my experience so far has taught me that power-sharing agreements without supportive institutions have many adverse consequences for governance, not least that they are most likely to facilitate lack of accommodation among diverse ethno-political groups, making coalitions unsuitable in attempts to achieve legitimacy and stability. The worst case scenario is the constant

## CHALLENGES OF A COALITION GOVERNMENT



Assembly, or of a coalition if the largest party does not command a majority. ODM obviously commanded a majority and Raila Odinga became the Prime Minister. On the basis of 50/50 sharing of positions, the Accord also provided for positions of two Deputy Prime Ministers appointed by each member of the coalition and a cabinet on the 50/50 formula.

But this was not without anchor: the 50/50 formula translated as a quantity by our PNU partners while in ODM it was interpreted in both numbers and “weight” of cabinet portfolios. This dissonance persists even where the National Accord underlines that the “composition of the coalition government shall at times reflect the relative parliamentary strength of the respective parties and shall at all times take into account the principle of portfolio balance”.

Today, we are faced with an uncomfortable situation where the Leader of Government Business in the House is the Speaker of the National Assembly who chairs the House Business Committee, a place traditionally reserved for a Member of the executive. The logic of coalition would have determined that since the Prime Minister is the leader of the majority party in Parliament and the “ordinator and supervisor” of government functions he would automatically succeed as the Leader of Government Business in the House.

The disagreement over interpreting the meaning of power-sharing has gone off the radar but remains real as it often threatens the stability of the coalition when suspicions rein over senior public and civil service government appointments.

Generally, this is one issue that has continued to threaten instability in the coalition. At the heart of the instability is the multiple interpretations of the National Accord as enshrined in the constitution vis-à-vis other

constitutional provisions that would suggest that the President alone retains the constitutional mandate as the country's Chief Executive.

This has been clearly

effect of undermining cohesion in decision-making in the grand coalition. Arguably, elements within the system have taken advantage of such hiccups to fuel suspicions

political parties. The reform agenda itself, the 2012 succession politics, and the design for a new constitution have become flashpoints on which inter- and



demonstrated in administrative hiccups of the new executive structure that emerged when the Office of the Prime Minister and that of the Head of the Public Service and the Secretary to the Cabinet clashed over overlapping roles.

The new power structure also created conflicts over protocol. Despite the Accord providing that the President and Prime Minister were to share powers equally, protocol wars emerged on who between the Prime Minister and Vice-President was senior to the other. All these have had the net

and mistrust in an attempt to derail the reform agenda.

### Party divisions

Factionalism within both PNU and ODM has also created multiple sub-parties within the main parties. This is due to several reasons, notably ethno-regional pressure for political and economic rewards from either of the two partners depending on perceived levels of support during the 2007 elections. Ethnic and sub-ethnic interests built around advancing their political interests have become the basis for further conflicts within

intra-party divisions revolve. These multiple divisions have affected inter- and intra-party cohesion with politicians forming transitory but politically explosive cross-party alliances for personal or regional interests. Indeed, intra-party factionalism persists due to lack of the institutionalization of political parties despite the enactment of the Political Parties Act (2007).

At its worst, inter- and intra-party factionalism has affected the creation of bi-partisan consensus and support for the government agenda in Parliament. Political wars for supremacy within political



parties supersede the national agenda.

The national agenda has become a pawn in the political chessboard for the 2012

nominees from each coalition party and is co-chaired by the President and the Prime Minister. The committee is supposed to mitigate conflicts within the coalition

the youth; consolidating national cohesion and unity, and addressing transparency, accountability and impunity.

We have made tremendous

addressing all the long-term issues in Agenda 4 progressed with the referendum on a new constitution held on 4 August. A new constitution will be the basis for radical inroads in tackling poverty, inequality and regional imbalances and unemployment, especially youth unemployment.

Hence, the proposed new constitution heralds a new era in the governance architecture of the country.

The proposed constitution establishes a framework for improving governance and will hopefully mobilize energies towards a better Kenya by healing divisions that almost destroyed Kenya as a nation-state during the post-election crisis.

It will be a new window to undertake more far-reaching changes in public sector institutions, open up political space for broad participation, militate against inequity through equitable resource allocation and spur the growth of the economy for wealth creation as a result.

### Conclusion

Lack of coherence within the coalition government remains a sticking point due to the lack of a clear mechanism for resolving disputes as well as the absence of a framework to guide the partners on how to operate within the coalition.

In the absence of structured mechanisms for consultations, partisan interests may increasingly continue to undermine decision-making within the coalition and prevent promotion of the greater interests of the country.

As a framework for the reform agenda, there is palpable optimism that the unity of purpose displayed by the Coalition Principals in support of a new constitutional dispensation will transcend into the post-referendum period and see to it that the transition and envisaged reforms take root and are actual, safe and sound.



contestation. Most times, acceptance or rejection of any public policy issue in Parliament seems to be driven by the political mileage it can accrue to the politician, rather than the good it would bring to the country. Such opportunistic ventures only deepen divisions and levels of mistrust within a coalition.

To address the challenges of cohesion, consultations and consensus, the coalition established the Permanent Committee on the Management of Affairs of the Coalition. The committee comprises six

government. However, not much has been achieved using the committee.

### Agenda 4 reforms

The National Accord outlines several issues under Agenda 4 that caused the crisis in Kenya, which if left unaddressed could lead to destabilization again.

These are: undertaking constitutional, legal and institutional reforms; land reforms; tackling poverty, inequality and combating regional development imbalances; dealing with unemployment, especially among

**Mr Mudavadi (front left) with Prime Minister Rt Hon. Raila Odinga (second left), President H.E. Hon. Mwai Kibaki (second right) and Vice-President Hon. Kalonzo Musyoka, (front right).**

progress despite the reality of suspicion and conflict, subterfuge and sabotage. Interim independent electoral institutions are in place; several independent commissions mandated to institutionalise good governance are up and working.

The constitutional reform process that is central to



# CLIMATE CHANGE AGENDA IN KENYA

Kenya and all Africa are affected by climate change as much as the rest of the world, so Parliamentarians must step in where governments have failed in order to achieve global unity of action against greenhouse gas emissions and other environmentally unsustainable practices, says a leading Kenyan Parliamentarian and academic.



## Prof. the Hon. Dr Margaret Kamar, MP, in Nairobi.

Prof. Kamar has been an Orange Democratic Movement Member of the National Assembly since 2007. She is a former Member of the Speaker's Panel, the Budget Committee and ACP-EU Parliament, and was a nominated Member of the East African Legislative Assembly from 2001 to 2006. After writing this article, she was appointed as Assistant Minister for Environment and Mineral Resources.

Environmental issues have dominated the agenda of the international system since the United Nations Conference on the Human Environment in Stockholm, Sweden, in 1972. The Stockholm conference was the first formal meeting of the world's leaders to raise political and public awareness of the environmental issues around the globe.

Since then, environmental issues have shaped international diplomatic and political interactions. Climate change has earned prominence in recent times due to its devastating and irreversible consequences that prove to be a great threat to humanity and other life forms on Earth.

### The climate change problem

Climate change is marked by an increase in global temperatures (global warming) with associated



Prof. the Hon. Dr Margaret Kamar, MP

changes in the other weather conditions, such as precipitation and other extreme weather conditions. Global warming is caused by the greenhouse effect on the Earth enhanced by the accumulation of greenhouse gases (GHGs) such as carbon dioxide, water vapour, ozone, methane, nitrous oxides and chlorofluorocarbons in the atmosphere.

The accumulation of GHGs

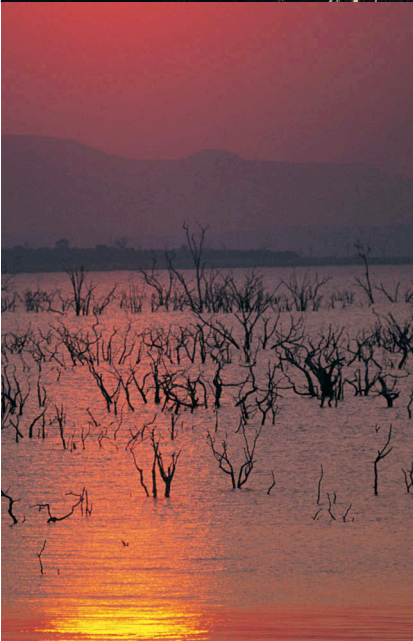
leads to trapping of more solar heat radiation near the Earth's surface within the atmosphere. This prevents heat from being reflected from the Earth back into space, consequently increasing global temperatures.

Carbon dioxide constitutes 76 per cent of the total GHGs in the atmosphere. Its increasing concentration intensifies its long-term effects on the environment.

According to the Intergovernmental Panel on Climate Change (IPCC), the global average surface temperatures are predicted to rise in the range of 1.5 degrees to 5.8 degrees Celsius by 2100 relative to 1990 levels. Evidence also indicates that a few degrees of warming from 1.5o C would be significant enough to cause a major effect on the global climate and increase the intensity of the impacts of climate change.

Human activities are largely responsible for the increase in the





amount of GHGs emitted into the atmosphere. These are: the burning of fossil fuels (petrol, coal, natural gas and biomass), ozone layer depletion, deforestation and some industrial processes. Natural processes such as volcanic eruptions, landfills and decaying animals and plants also release GHGs.

Trees and other vegetation cover act as carbon sinks: they absorb carbon dioxide as a raw material for photosynthetic processes. Deforestation therefore disrupts this carbon intake and leads to more carbon dioxide in the atmosphere, leading to greenhouse warming.

Ozone layer depletion is caused by high levels of chlorofluorocarbons (CFCs) used as coolants in air-conditioners and refrigerators. CFCs are also used as aerosol propellants in fire extinguishers and jet fuels.

The ozone layer protects us from harmful, high-energy ultraviolet light from the sun, so its depletion allows these energy rays to reach and cause heating of the Earth with damage to living organisms and skin cancers in humans.

Most of the greenhouse emissions are generated in the industrialized and developed countries while most of the extreme effects of climate change are felt in the developing countries.

In this regard, there is an emergency for all countries to fight climate change through the control of greenhouse emissions in their development agenda. This means that the Northern and Southern economies have to reduce their dependence on fossil fuels. This must be done if sustainable development and the Millennium Development Goals are to be realized, and in order to save planet Earth and future generations.

### **Climate change concerns in Kenya**

Every part of the globe has experienced suffering caused by the effects of the changing climate. This has served as a unifying and driving force for concerted international action on climate change.

In 1988, the IPCC was created by the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) to provide leadership in the assessment of the scientific knowledge and information on

**Opposite page and above: Climate change has led to the recession of glaciers on Mount Kenya (above) and Mount Kilimanjaro (opposite page) just over the border in Tanzania. Left: Flooding submerges a forest.**



climate change and global warming.

Following the report of the IPCC, the global community in 1992 signed the United Nations Framework Convention on Climate Change (UNFCCC) at the Rio Earth Summit which was later ratified in 1994. Thereafter, several protocols have been formulated to translate the UNFCCC framework into action.

Notable cases include the Kyoto Protocol (1997), Montreal Protocol (2005) and Copenhagen Accord (2009) which sought to reduce emissions of greenhouse gases into the environment. The Copenhagen Accord was reached in December 2009 but with no

meaningful and legally-binding reduction targets in GHGs emissions.

The impacts of climate change continue to ravage developing countries due to their lack of technical and financial resources to address climate change. Africa in general and Kenya in particular are especially vulnerable since they rely mainly on rain-fed agriculture and natural resources for survival.

The clear symptoms of climate change threaten to compromise the gains being made to reduce poverty in the African continent. Africa must therefore build capacity to enhance its resilience in the face of the challenges posed by climate change.

### **Ms Kamara takes the Oath of Office as Assistant Minister for Mineral Resources during the swearing-in ceremony at State House, Nairobi.**

In Kenya, climate change has manifested itself in pointers such as: the recession of glaciers on Mount Kenya and Mt. Kilimanjaro; frequent famines; an increase in maximum and minimum temperatures; increased frequency and intensity of weather extremes (droughts/La Nina and floods/El Nino); shrinking and declining water levels in lakes and rivers such as Lakes Victoria, Naivasha, Elementaita and Bogoria, and sea level rise at the coast of Kenya.

Lake Victoria is a fresh water lake. Its declining water level poses a serious threat to the lifeline of East Africa, Sudan and Egypt among other riparian states. The decreases in surface water sources also pose threats to hydropower generation due to insufficient water in the power dams. Kenya has faced frequent power rationing because of the low levels of water in its hydro dams. The rationing has forced the country to employ the use of expensive diesel generators thereby affecting business and the manufacturing sector.

Kenya has also experienced frequent long droughts which continue to impact on people's livelihoods in areas such as the east and northeast. This has led to the death of livestock while also causing the affected communities to depend on relief food. The government has been forced at such times to appeal for international assistance to help feed the population. Because of infrequent rainfall, it has also been forced to import cereal like maize.

### **A priority for climate change policies**

Kenya has therefore moved to mainstream climate change in development policies. The government has developed a comprehensive environment policy that draws on poverty and environment linkages. The policy also aims to support the country's sustainable development aspirations through the integration of environment considerations across sectors. This policy is yet to be introduced in Parliament for the necessary legislation to commence.

The efforts being undertaken in the environmental policy include pursuance of sustainable natural resource development to reduce poverty and to abate continued environmental degradation and depletion of natural resources. The policy seeks to implement sustainable development through



constant monitoring of weather, climate and the chemical composition of the atmosphere coupled with an observation network of natural-resource stock levels of ecosystems.

Earlier in 1999, the Environmental Management and Co-ordination Act was enacted to harmonize the various sectoral statutes relating to the management of the environment and the rational exploitation of natural resources. The National Environmental Management Authority was established to co-ordinate and manage all environmental matters including education, awareness creation, planning and standards as well as enforcement of the law.

A comprehensive National Climate Change Strategy to guide all activities and interventions aimed at addressing issues related to climate change is being finalized. The Strategy is intended to consolidate national efforts and focus on adaptation to climate change consequences and address mitigation measures.

A Climate Change and Co-ordination Unit at the Office of the Prime Minister has also been established to spearhead the high-level political co-ordination needed to mainstream climate change issues into the broad political and development agenda.

The development of a forest master plan to restore degraded forest cover and improve the quality of the environment is currently being pursued. Notable is the Mau forest complex, which is the biggest “water tower” in the country.

To enhance the supply of environmentally friendly and affordable energy, the government is investing in the development of renewable energy technologies such as geothermal, solar-based, biofuels and wind technologies. They are expected to reduce over-dependence on fossil fuels.

The government has set up a Ministry of Development of

Northern Kenya and Other Arid Lands to address specific needs of the people in the arid and semi-arid lands of northern parts of Kenya. These areas are inhabited by nomadic pastoralists who continually suffer food scarcity, drought and desertification.

In the 2009/2010 national budget, the government in partnerships with some banks established a Green Economy Facility to transform Kenya into a green economy through offering interest-free, long-term loans to firms that opt to replace conventional high-cost energy generation with low-cost green alternatives.

Indeed the pursuit of environmental concerns in development has long been recognized in Kenya. The creation of the Ministry of Environment and Mineral Resources crystallized the political leadership and commitment essential in mainstreaming environment agenda in development.

The siting of the offices of the United Nations Environment Programme (UNEP) in the 1970s also attests to the fact that Kenya has played an active role on environmental matters at the international level. This international recognition was also played out with the awarding of a Nobel Peace Prize to Hon. Prof. Wangari Maathai in 2004 for her unrelenting efforts in environmental conservation through her Green Belt Movement's tree planting activities.

### **No Copenhagen deal**

Prior to the Copenhagen UN climate change Conference of Parties in December 2009, there was a great deal of clamour around the world on the need for a fair, safe, equitable and effective deal to be reached at Copenhagen that would attract the participation of all countries.

This was the motivation behind the ambitious “Seal the Deal” campaign by UN Secretary-

General H.E. Ban Ki-Moon in lobbying for strong political will and public support for a comprehensive global climate agreement. In the words of the Secretary-General, this slogan was hinged on the premise that combating climate change “is an investment with strong returns and any delays and inactions will only help to worsen the lives of millions of people”.

Consequently, the Secretary-General cautioned the developing countries, and Africa in particular, to be careful in signing a climate change treaty in December 2009 because of their vulnerability.

The campaign preceding Copenhagen centred on the call for the rich nations to take responsibility for climate change and provide adequate resources for mitigation and adaptation measures in vulnerable countries.

This perhaps worked to stall the reaching of a new legally binding treaty at Copenhagen. The failure to “seal the deal” on emission reduction targets hinged on suspicion among the developed, developing and emerging economies such as South Korea, India and China.

As if not to be left behind in the negotiations towards a climate deal at Copenhagen, Parliamentarians in Africa came together to form the Pan African Parliamentarians' Network on Climate Change (PAPNCC) to provide them with leadership in the fight against the challenges posed by climate change in Africa. PAPNCC held two conferences in 2009 at Yaoundé, Cameroon, and at Nairobi, Kenya. African Parliamentarians dialogued on wide-ranging issues pertaining to the impact of climate change on the continent and the path Africa could follow in the climate negotiations at Copenhagen.

The objective was to lobby the African countries to adopt a united and common position during the Copenhagen meeting in order to engage the international

community and have their views and voice heard.

### **Parliaments can help seal an implementable deal**

Now that the Copenhagen COP-15 ended with no tangible legal agreements to be followed by countries in reducing emissions, Parliaments must take a more proactive role in lobbying their respective countries to commit themselves to reduce carbon emissions if the war on climate change is to be won. The Copenhagen accord that was reached cannot be translated into legislative outcomes to be implemented by countries, so Parliamentarians should crusade for countries to create a strong and binding agreement on greenhouse gas reduction outcomes.

Parliaments must work to strengthen commitments by countries to work for a new comprehensive international climate treaty. The Kyoto protocol expires by 2012 and consequently there is urgent need for new rules to apply thereafter. Developed countries need to agree to ambitious greenhouse gas reduction targets beyond business-as-usual, while developing countries must explore how they can take advantage of the opportunities offered in the climate conventions and treaties to assist them to overcome climate changes.

All countries should now rise to confront the challenges posed by climate change and to redefine international relationships and establish genuine collaborations to combat climate change despite their divergent responsibilities and capabilities.

Therefore Parliamentarians should effectively exercise the roles bestowed upon them by their electorates to contribute to the socio-economic development of their countries, especially as far as climate change, poverty reduction and sustainable development are concerned.



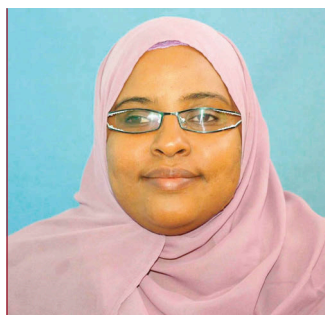
# HOW TO INCREASE FEMALE REPRESENTATION IN PARLIAMENT

One of the relatively small number of women to sit in the Kenyan Parliament describes the obstacles standing in the way of female representation and outlines what has to be done to develop not just Kenyan women politicians but all Kenyan society.



## Hon. Amina Abdallah, MP, in Nairobi.

Ms Abdalla is a nominated MP serving her second term in Parliament. She is a lawyer who has campaigned for women's rights. She is also a member of the National Organizing Committee for the 56th Commonwealth Parliamentary Conference.



Hon. Amina Abdallah, MP

Mahatma Gandhi is quoted as saying "if peace is to be part of our being, then the future is with women."

It is apparent that most countries in serious civil conflicts have the fewest female

representatives in their Parliaments. Inevitably, most post-conflict Parliaments have more female representation. An example is the Rwandan Parliament.

Similarly, countries with better social security such as the Scandinavian countries have relatively more female representatives. These are a demonstration of the instrumental role women play in the social, economic and political stability of a country. Women appreciate that peace is the core that holds the three together.

### Women and representation

The underrepresentation of women is a global issue. Nowhere in the world are women

represented in government in proportion to their population. In the current post-modern society, female participation in all aspects of life is of essence because balanced gender representation is essential for proper governance. Scholars and policy-makers have shown increased recognition of the importance of women's contributions to African development. In addition, the involvement of women in decision-making and political leadership has become a major concern for governments and the civil society throughout the world.

Representation of women in elective positions of power, for example the Legislature, is a matter of justice and equality and



has been found to be limited. Their absence is therefore an indication of the yet to be achieved democracy with reduced opportunities in the enactment of

laws that are crucial to benefit women and children.

There is increasing recognition of the significant role women play in the socio-economic and political

**Opposite page: Flamingos flying over Lake Magadi.  
Above: Maasai women.**

development of a society. This however is not in tandem with their numbers in decision-making positions. For instance, from 1945 to 2002, women's legislative representation increased from 3 per cent to only 14.7 per cent worldwide (Inter-Parliamentary Union, 2003). In Kenya, up until the introduction of multi-party politics in 1991, women rarely made inroads in party structures and thus few managed to be nominated and consequently elected as Parliamentarians. The situation has improved from 1.2 per cent at independence to 10 per cent in the 10th Parliament.

Though women have made progress since 1992, it is far below the international representation threshold of 30 per cent for effective representation of either gender. Hence the need for further redress.

Kenya is yet to adopt the policy on gender and development mainstreaming in policy, planning, programming and human relations. Parliament passed a Bill for the establishment of a National Commission on Gender and Development and it was inaugurated in November 2004.

Women's ascension to leadership positions and full participation in development continues to be hampered by a number of obstacles. The implication is that women over the years have remained invisible victims of political oppression and are inherently forgotten as political actors.

### **Obstacles facing women**

For women to increase their participation in Parliament, they must identify the obstacles and strategies to overcome them.

Political participation of women depends on the social and cultural climate of a country. In Kenya, men dominate the political arena; they formulate the rules of the political game and define the standards for evaluation. The existence of this male-dominated model results in



**Women representation 1969 to 2007**

Year	Elected	Nominated	Total of men and women	Female Percentage
1969	1	1	170	1.2
1974	4	2	170	3.5
1979	4	1	170	2.9
1983	2	2	170	2.4
1988	2	1	200	1.0
1992	6	1	200	3.5
1997	4	4	222	3.6
2002	9	8	222	7.6
2007	16	6	222	10

women rejecting politics altogether or rejecting male-style politics as they lack political support from men and other women in the society. Political parties remain the main slaughter houses for women trying to entry into politics.

Cultural practices constitute the substratum of gender disparity in the society. Cultural practices favor the boy-child by placing him on a pedestal where he has access to education, has the right to own and inherit land and be in a position of leadership at household, community and national level. Furthermore, patriarchal systems like the councils of elders, wherein culture is developed, are dominated by men who make key decisions for women. Culture further impinges upon the rights of women by denying women the right of access to education thanks to cultural practices like female genital mutilation and early forced marriages.

Pursuant to retrogressive cultures, women are also denied the right to inherit land and the right to make decisions on their reproductive health rights. Matrimonial practices also objectify women through the system of dowry payments. Worse still, in some communities – for instance, the Maasai and the Islam communities – the right to participate in decision-making is affected by interference by women’s partners with their right to vote.

The patriarchal system entrenched by cultural practices

**“Worse still, in some communities – for instance, the Maasai and the Islam communities – the right to participate in decision-making is affected by interference by women’s partners with their right to vote.”**

equates women to children who need to be led and should never lead. Leadership has therefore inevitably been the preserve of the male gender.

The biggest challenge women face is poverty. The majority of women in Kenya and across the world are very poor. Poverty further exacerbates women’s chances to access opportunities like education by enhancing practices like: early forced marriages, forcing young girls into prostitution to meet the basic needs of their families, human trafficking, illiteracy, child labor and slavery and the

recruitment of child soldiers.

Slow implementation and enforcement of gender equality policies and legislation and insufficient budgetary allocation for gender equality work as well as weak partnerships among stakeholders also contribute little progress being made towards addressing women’s rights across all levels, as recognized in the Kenya Women Manifesto of 2005.

**Electoral politics**

Most women in Kenya are not informed about the political system in the country as most of them do not have formal education. Thus their participation in politics is further constrained by a lack of education and access to information.

The electoral systems of most democracies today, including Kenya, are based on the first-past-the post model. This results in a “winner takes all” situation with the effect of unduly escalating stakes in politics. The electoral process and participation is therefore made astronomically expensive. It follows that given the economic impotence of women, competitive politics becomes prohibitive.

Electoral systems, particularly in Kenya, have over the years failed to stamp out election-related violence. Violence related to campaigns has been in the past employed as a tool against female candidates. Threats of harm in the form of rape against women

candidates are not unknown to politics in Kenya. Unless the electoral system addresses the problem of violence that precedes, accompanies and follows voting, many women are still likely to be cowed from vying for parliamentary seats.

It’s also unfortunate that political parties, whilst considered as the vehicles of democracy, are themselves slaughterhouses to eliminate women from political contention. The electoral system needs to address itself to the ugly reality that political parties are actually boys’ clubs.

In modern democracy and society, some degree of formal education is indispensable for one to effectively and successfully contend for a political seat. This is all the more so with an emerging generation of young and more enlightened voters.

In Kenya historical injustices and imbalanced access to education has however ensured that a relatively smaller population of women are educated. The pool of political candidates is therefore starved of women. There are hardly enough women to compete on a level footing with the more and better educated male counterparts in many leadership and executive position across various sectors.

**Strategies to increase the number of women in Parliament**

During the last decade, women’s



parliamentary representation in long-standing democracies such as Kenya has increased. Some of the factors that this improvement may be traced to include:

- The positive role of women's organizations,
- Commendable reforms in the electoral system,

### A Maasai woman holding her child.

- Individual efforts and successes of the few women Members of Parliament and
- Enhanced attention to gender policy including affirmative action.

These areas still need to be exploited more in order to achieve better women representation in Parliament.

One of the critical reasons for the rise is the impact of women's organizations both inside and outside political parties. Women's organizations should work with political and government institutions to secure electoral changes to facilitate women's nomination and election. This strategy will result in increasing women's representation within legislative bodies. There should be contact and co-operation between women politicians and women's organizations or other broad interest organizations such as trade and labour unions.

The Kenya Women Parliamentary Association (KEWOPA), which is the voice of women in Parliament, should work together with women's groups towards strengthening the capacity of women Parliamentarians to contribute to gender responsive and affirmative action legislation and policies at all levels, and especially in engendering resource allocation and in increasing the numbers of women in Parliament. They should ensure effectiveness and quality representation and foster collaborations and networking for information exchange, experience sharing, grassroots organizing and mutual support between women politicians and women in other civil society agencies.

The marked improvement in female representation in the Kenyan Parliament may also be attributable to some noticeable reforms that in one way or the other impacted on the electoral system and participation of women in electoral processes. The Political

## FEMALE REPRESENTATION



Parties Act, 2008, has been instrumental in the emancipation of women in political spheres. There is now in place a system that ensures closer scrutiny of the activities of political parties. The act also requires that parties have in their executive arms at least 30 per cent representation by women. The full impact of the act may not have been witnessed yet since it only came into operation recently.

### Voting systems and quotas

The general electoral system too needs to be reviewed in order to enhance its capacity to accommodate female candidates. The type of electoral system a country has plays an important part in women's political representation, especially in the developed world. Most argue that proportional representation systems are better suited than majoritarian systems to increasing women's representation.

The district system has been shown to increase women's share of parliamentary seats by nearly 12 per cent when compared to a candidate-centred, single-Member district system.

Another option is the use of quotas and reserved seats which is a common approach to protect the interests of marginalized and minority communities. In Kenya, women fall in such groups.

Among the most affluent longstanding democracies, the United States has one of the smallest proportions of female legislators because none of the positive steps for women such as quotas in political parties, reserved seats in Congress and woman-friendly electoral systems exist there.

Scandinavian countries are exemplary in bringing more women in Parliament by using quotas in political parties. The rise in the numbers of female legislators in several Scandinavian countries is a consequence of political parties adopting formal quota systems which ensure at least 40 per cent

female representation on party lists.

Argentina's Ley de Cupos (Law of Quotas) is an example of a national law requiring all political parties to adopt a minimum quota (30 per cent) on party lists for women in the election of national Deputies.

In Kenya, the current draft constitution has proposed the reservation of 47 special seats for women in the National Assembly and 16 women Members, nominated by political parties, in the Senate.

**“Empowering women is empowering the household, the community and the society.”**

### Successful role models

Rosemary O'Grady, an Australian lawyer and book reviewer, once said: “Because women's liberation is a movement of the powerless for the powerless, its attraction is not immediately clear to the powerless, who feel they need alliance with the powerful to survive.” This probably explains why in Kenya it has taken just a handful of pragmatic Kenyan women to initiate a gradual change in women's mentality about the place of women in political leadership. Notable women Parliamentarians in this context include the likes of Njoki Ndungu, Jebii Kilimo, Marth Karua and Charity Ngilu among others.

The few women Members of Parliament have in their own way demonstrated through good performance that women have great potential in leadership. Against all odds in a dominantly male Parliament, they have been able to make their presence and



influence felt. They have risen above gender prejudice to see through some of the most progressive laws in our time, the Sexual Offences Act and the Children Act among others. A number of them have not shied away from making the voices of woman heard in the call for reforms.

Great impression too has been made by women who have defied all stereotypes and gunned for top political leadership including the presidency.

### Gender policy progress

The Kenyan government has made some progress towards addressing women's rights. A number of policies and key national plans have been formulated that address critical areas of concern such as education, violence against women, decision-making, economy, health and employment. Examples can be seen in:

- Engendering public expenditure;
- The establishment of the Women's Enterprise Fund (WEF) to facilitate women's access to credit and empower them economically;
- Establishment of the Social

Protection Fund to support vulnerable and poor women;

- Implementation of the presidential decree, in October 2006, that required 30 per cent of all appointments, recruitments and promotion in the Public Service to be reserved for women;
- Development of a specific Gender and Education Policy in 2007 to provide a framework for the implementation of gender-responsive education which has contributed to an increase of girls in universities and in specific courses, and
- Establishment of the National Commission on Gender and Development.

It is now a requirement for all government ministries and parastatals to include gender mainstreaming initiatives in their performance contracts.

There is a shift from line budgeting to programme budgeting providing for the financing of specific programmes/projects.

This has enabled the government to track budgetary allocations that target gender equality and women's empowerment.





**Kenyan women are entering leadership positions throughout society, such as athletics medalist Mercy Cheron.**

A number of Bills to address gender-based violence and human rights concerns have been enacted and others are in the process of finalization.

### **Building experience**

Civil society in general, including non-governmental organizations and women's groups, must play a role in advancing women's representation. Women must also think carefully about their own goals, strategies and tactics.

There is therefore need for more of such women's organizations to spearhead the formation of a cohesive women's movement capable of influencing national decision-making processes and lobby for women's representation in the political arena.

In order to empower and enable women to participate in politics, it is necessary to extend the scope of women's involvement at the grass-roots level in women's movements and among elected local bodies. Expanding the pool of women who are qualified for recruitment into political careers is needed. Common understanding of the concerns of women, gender awareness-raising, lobbying skills and networking are important in training women.

Women's leadership schools play a special role, since they are the places where links can be made between the wider groups of women and women politicians; and they are very often the only place where women can be prepared and encouraged for a political career in Parliament. Special attention should also be given to the involvement of young women in political participation.

### **Universal empowerment**

Susan B. Anthony, a prominent American civil rights leader, once said:

*"The day will come when man will recognize woman as his peer, not only at the fireside, but in councils of the nation. Then, and not until then, will there be the perfect comradeship, the ideal union between the sexes that shall result in the highest development of the race."*

Challenges and opportunities do exist for women. A lot of work needs to be done to remove challenges to female participation in politics.

All stakeholders, the government, non-governmental organizations, civil society,

### **Reading List**

Burness, C. 1997: "The majority as minority: Women and contemporary politics in Scotland, New Zealand and Finland, 1960-96". *Parliaments, Estates and Representation* 17: 207-21.

Dahlerup, D. 1998. "Using quotas to increase women's political representation". In A. Karam (ed), *Women in Parliament: Beyond Numbers*, IDEA, Stockholm: 91-106.

Darcy, R., S. Welch and J. Clark. 1994. *Women, Elections, and Representation*. Lincoln, University of Nebraska Press.

Hay, J.M. et al, (1984). *African Women South the Sahara*. London: Longman Group.

Inter-Parliamentary Union (IPU) (2000). "Politics: Women's Insight". Reports and Documents, No. 36, IPU, Geneva.

Isika, M. (2006). *Women*, Department of Sociology, Project Paper, University of Nairobi, Kenya.

Kaufman, A. (1997). "Differential Participation: Men, Women and Popular Power". In Kaufman M. and Alfonso (eds.) *Community Power and Grassroots Democracy: The Transformation of Social Life*. IDRC, Zed. Pgs 151-170.

*League of Kenyan Women Voters* (1997), *The Kenyan Women's Manifesto* (2005), Nairobi Kenya. Friedrich Ebert Stiftung and League of Kenyan Women Voters.

Manuh, T. (1998). "Women in Africa's Development: Overcoming Obstacles, Pushing for Progress". In Africa Recovery Briefing Paper No. 11, April 1998, United Nations, NY.

Njeru, E.H.N (1998), "Women, Decision-Making and Poverty" in Bahemuka et al (Eds.) (1998) *Poverty Revisited: Analysis and Strategies Towards Poverty Eradication in Kenya*. Ruaraka Printing Press Nairobi.

Nzomo, M. et al. (1992), *Women's Initiatives in Kenya's Democratization*. *The National Committee on the Status of Women (NCSW)*, Nairobi.

Wanyande, P. et al, (2007). *Governance and Transition Politics in Kenya*. University of Nairobi Press.

Rule, W. 1994a. "Women's under-representation and electoral systems". *Political Science and Politics* 27(4): 689-92.

Rule, W. 1994b. "Parliaments of, by and for the people: Except for Women?". In Rule, W and Zimmerman, J. F. (eds), *Electoral Systems in Comparative Perspectives: Their Impact on Women and Minorities*, Greenwood Press, London: 15-30.

professional bodies and international agencies must come together at local, regional and international levels to improve the

lives of women.

Empowering women is empowering the household, the community and the society.



# THE KENYAN MP: BALANCING MANY ROLES AND FUNCTIONS IN THE NATIONAL INTEREST

The job of an MP in Kenya – and around the Commonwealth – is a complex balancing act involving a broad array of functions and demands, all of which must be handled effectively for the good of the country, says a leading Kenyan Parliamentarian.

## Hon. David Musila, MP, in Nairobi.

Mr Musila is an Orange Democratic Movement-Kenya Member and is Assistant Minister of State for Defence. A former senior civil servant, he was first elected to Parliament in 1997. He chairs the National Organizing Committee for the 56th Commonwealth Parliamentary Conference.

The essential role of a Member of Parliament lies within the specific functions assigned to Parliament in the constitutional structure of the state.

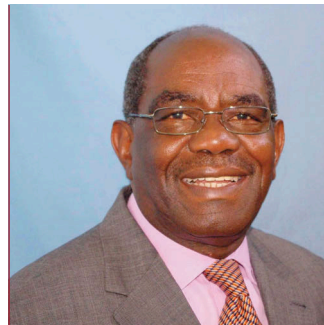
In Kenya, there are 210 elected, 10 nominated and two ex officio Members, faced with an ever-growing array of expectations from society. MPs are required to ensure the issues that affect their constituents are addressed and, in the words of the 18th century political philosopher Edmund Burke: "It is his duty to sacrifice his repos, his pleasures, his satisfaction, to constituents; and above all, ever and in all cases, to prefer their interests to his own."

### The roles of Members in Kenya

Universally, MPs are expected to perform five central roles in national governance:

- Legislation: Legislators consider, refine and pass Bills to improve the lives of Kenyans. Though most Bills come from the executive, MPs

can also introduce Bills as private Members.



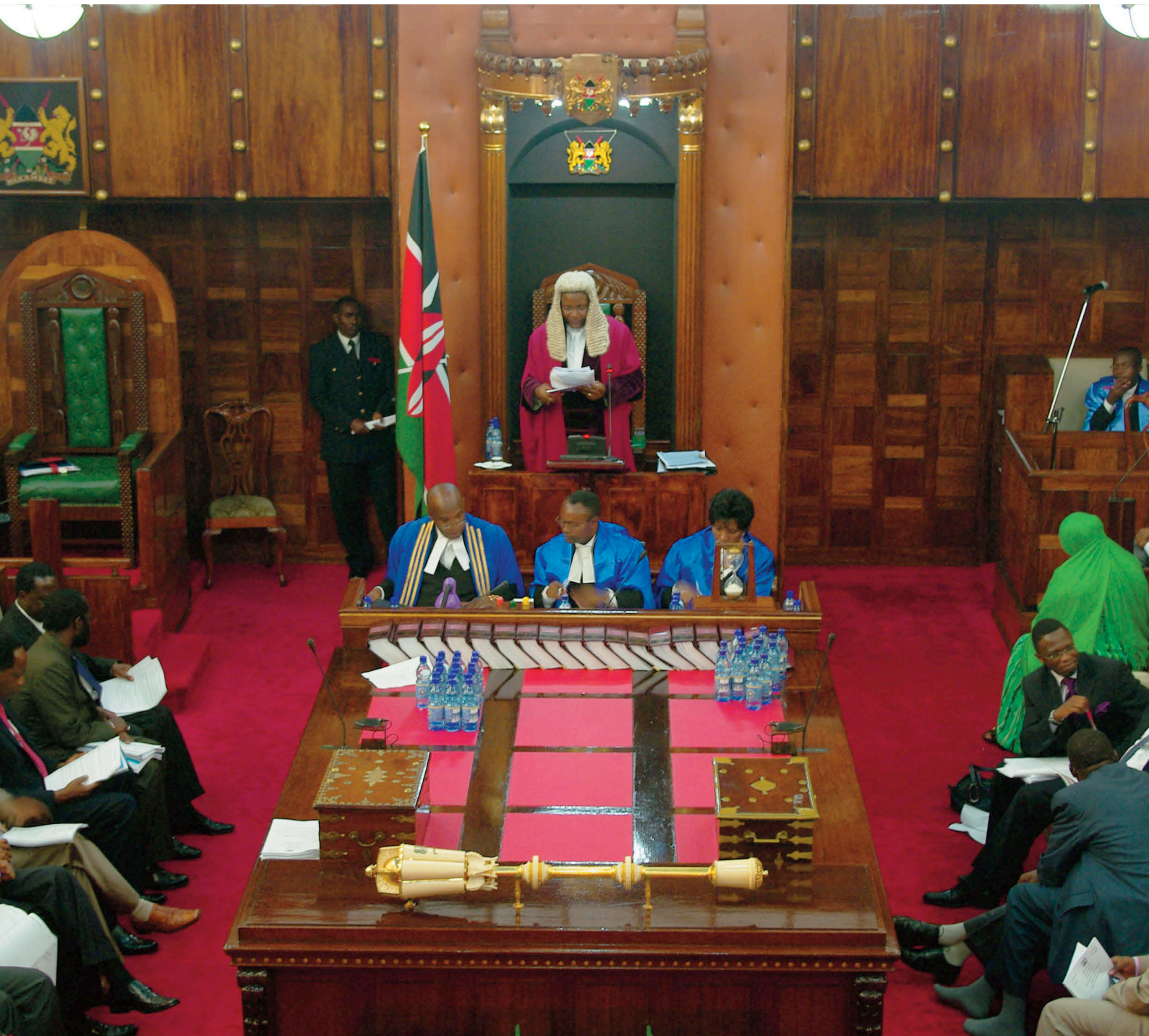
Hon. David Musila, MP.

- Oversight: The oversight role extends to scrutiny of financial, administrative and management practices of the executive and public officers. MPs hold the executive to account for expenditure, government programmes and policies. The guiding principle is to ensure there is prudent use of resources and proper implementation of policies.
- Representation: MPs are the

bridge between the electorate and the government. They relay issues facing voters to the government for consideration and press for action. Also, they communicate to the public ongoing government plans and policies to address their concerns.

- Financial appropriation and control: MPs debate and pass financial estimates contained in the budget presented by the executive, including taxation measures for raising revenue to finance public development programmes; and
- Making and unmaking of government: Parliament has the power to vote out the executive through a vote of no-confidence. This is a powerful lever at its disposal to determine the life of the government by providing or withholding support to either the entire government or a Member of the executive.

MPs, however, go beyond these traditional roles and perform other roles such as:



- Organs of diplomacy: MPs practice parliamentary diplomacy by fostering good relations between different regions through membership of international organizations such as the Commonwealth Parliamentary Association (CPA) and the Inter-Parliamentary Union (IPU) and through foreign visits. They represent the country as

“ambassadors” in various regional and international fora and participate in the formulation of various treaties. They also practice diplomacy through peace interventions in the neighboring war-torn countries such as Sudan and Somalia.

- Watchdogs of democracy: MPs are the citizens’ watchdogs and ensure that

they are able to enjoy their fundamental freedoms and rights. MPs defend the constitution on behalf of citizens and play a key role in checking the government to ensure that no one’s rights are violated. MPs maintain links with civil society, the media and other bodies to promote democracy. Kenyan MPs, for instance, have been at the

**Above: Parliament in session in the Old Chamber.**



**Above: Mr Musila outlining conference details at the CPA Executive Committee meeting in Swaziland in May.**

forefront in fighting for the resettlement of Internally Displaced Persons (IDPs) left homeless by the 2008 post-election violence.

- National leadership and reconciliation: The growing importance of Parliaments in conflict resolution and peace building among communities can be attributed to the increasing awareness of the nexus between Parliament, conflict prevention and poverty reduction. MPs are uniquely positioned to lead peace efforts and promote national dialogue to weed out threats to national security. For instance, in early 2008 after the post-election violence Parliament facilitated debate and the enactment of the National Accord that culminated in the establishment of the Grand Coalition Government in April 2008.

Through their participation and

involvement in inter-parliamentary institutions such as the CPA and IPU, MPs have the responsibility to ensure there is global tolerance and understanding among different peoples and cultures. Furthermore, they approve international agreements, treaties and conventions entered into by the government and ensure national interests are not violated.

**Legislating for the people**

Parliament has the mandate to deliberate issues facing Kenyans and press for executive action. This is achieved by backing relevant laws and regulations, budgetary allocations and sound policies, creating institutions and vetting public office appointments.

Article 30 of the constitution grants exclusive legislative power to Parliament, through transaction of motions and Bills. The cardinal role of MPs is to consider, refine and pass Bills which, upon presidential assent, become laws as Acts of Parliament.

Nearly 90 per cent of parliamentary business emanates from the executive arm, whose responsibility is to initiate new or reform existing legislation. MPs influence legislation through debates, particularly in the committees where Bills are referred to after First Reading. Any MP, individuals, organized groups and other stakeholders can make presentations before the departmental committees or make proposals through written memoranda for consideration by the House.

The most direct means by which an MP may legislate is by sponsoring a private Member's Bill. Private Members' Bills are public interest policy issues sponsored by an individual Member or party but not a Member of the cabinet. This could be for new legislation or seeking to amend existing laws.

**The scrutiny role**

Parliament has the "power of the purse", where it regulates revenue

collection and expenditure of public resources through the budgetary process.

MPs are empowered to debate and pass the budget. Through departmental committees, MPs scrutinize budgetary allocations to various ministries and hold the government accountable for its policies and administrative practices.

Members scrutinize government activity through questions and motions, ministerial statements and committee probes. MPs direct questions to Ministers on policy issues in service delivery. In the Kenyan Parliament, there is a question hour at every sitting, while sittings on Wednesdays are reserved for private Members' motions.

Committees exercise surveillance to ensure government



accountability by questioning Ministers and public officers during committee proceedings. They also inspect various government projects to establish facts and hold media briefings to state their positions on various national issues.

**Working with constituents**

Kenyan MPs are expected to maintain a close link with their constituents and articulate issues affecting them, provide leadership and take part in local events. Constituents expect MPs to secure employment for them, build infrastructure and finance social needs like education, among others.

To deliver, MPs make regular visits to constituencies. They help reach ministers to mobilize resources to address local challenges and air grievances of their constituents in the House.

Kenyans can also petition Parliament, through any MP, on matters of public interest they require addressed by the government. By raising such issues, the performance of a given Minister and the entire government is brought into close focus.

In 2004, the Constituency Development Fund (CDF) was established through an Act of Parliament. Every year, 2.5 per cent (approximately Kshs 10 billion) of the annual national budget is allocated to the CDF. MPs, who are patrons of their local CDF committees, together with committee members prioritize development projects equitably throughout the constituency.

**MPs and policy-making**

MPs play a key role in policy-making as they have the power to amend government Bills, initiate legislation and analyze the spending priorities of government. The President's Speech during the State Opening of Parliament outlines the governments' policy and legislative agenda for the session. The Standing Orders allot

four days for MPs to debate the speech.

The budget, which is presented to Parliament for approval, outlines the government's spending policy and sources of revenue. Following the Budget Speech by the Minister for Finance, MPs scrutinize departmental estimates in committees where they may question Ministers and officials about departmental spending plans. Through the Committee of Ways and Means and the Committee of Supply, MPs provide their input on the government's taxation and general financial policy.

Question time provides a session for MPs to question government policies and actions. During the Prime Minister's questions on Wednesday afternoons, MPs may request statements or ask the Prime Minister questions relating to policy or the general performance of the government.

Individual Members also attempt to influence policy-makers privately by telephoning or writing to Ministers to discuss their policy concerns.

Kenya has a robust committee system, which provides for the scrutiny of government activities by MPs. The Standing Orders provide wide surveillance powers, including the power to summon witnesses and request documentary evidence. In committees, Members of the public, civil society representatives and other stakeholders contribute to Bills and the committee prepares a report which is submitted to the House.

**Political party roles**

Kenya's political parties take stands on various national issues and MPs belonging to these parties must make their contributions to these policies in reference to the party's stand.

Political parties are instrumental in enhancing parliamentary democracy. Every aspirant must be nominated by a party to vie for a

parliamentary seat. In return, they are ideally expected to support their parties' policies when voting in the House.

Parties must have a manifesto, which outlines their policies and therefore the party caucus offers a platform for indirectly influencing government policy.

**Support for Members of Parliament**

The responsibilities of MPs can be overwhelming such that they

**“MPs are on-call on a 24-hour basis and often work for long hours. Though it is not easy, they have to juggle all these roles and are the typical “jacks of all trades....”**

require support in discharging their duties diligently. The Parliamentary Service Commission (PSC) and the offices of the Speaker and Clerk help MPs in discharging their duties.

The PSC provides and maintains Members' offices, both in Nairobi and at the constituency, and employs technical staff to aid them in their parliamentary duties. Parliamentary staff, including Clerk Assistants and policy analysts (professional researchers and fiscal analysts), offer technical assistance such as the preparation of committee programmes, reports, parliamentary questions and motions, policy briefs and papers among others. The staff is available to provide any procedural and technical advice to Members in reference to the Standing Orders.

Apart from their salaries, MPs receive other funds such as mileage reimbursement and a

constituency allowance to enable them to hire personal support staff at their constituency and parliamentary offices. They receive constituency office funds to pay staff such as constituency managers and secretaries as well as to run and maintain their offices. However, these monies must be accounted for as any other public funds.

The PSC allocates finances from the annual parliamentary budget to facilitate Members' capacity-building. Through training and workshops, MPs are exposed to various national policies, which are critical in discharging their roles. This helps them to contribute to debates in plenary sessions. MPs also make local and foreign trips to assess the status of projects or to gain from the experiences of other parliamentary jurisdictions.

There is a wide source of reference at the disposal of MPs in the Parliamentary Library and resource centre. They are also provided with security services while in Parliament buildings as well as catering and a gym.

**Conclusion**

MPs play a critical role in strengthening the country's democracy. However, competing interests make their lives and work a perpetual balancing act as they try to reconcile demands from political parties, the executive, constituents, stakeholders and family. MPs are on-call on a 24-hour basis and often work for long hours as they are either working in their constituencies, in committee meetings and plenary debates or travelling abroad on official assignments.

Though it is not easy, they have to juggle all these roles and are the typical “jacks of all trades” – family members, community and national leaders, rights activists, ambassadors and philanthropists. The MP has the heavy obligation to perform all these roles diligently for the good of the nation.



# ALTERNATIVE ENERGY DEVELOPMENT IN KENYA

Kenya and other African nations are well endowed with renewable energy sources, so a Member of the National Assembly who is also a leading academic scientist advocates policies to promote development through the exploitation of alternative energy.

## Prof. the Hon. Dr Margaret Kamar, MP, in Nairobi.

Prof. Kamar has been an Orange Democratic Movement Member of the National Assembly since 2007. As Moi University's Deputy Vice-Chancellor, she was in Charge of Research and Extension from 2002 to 2006. After writing this article, she was appointed as Assistant Minister for Environment and Mineral Resources. A professor of soil science at Moi University, she holds a doctorate in soil and water conservation from the University of Toronto.

Energy is critical to the socio-economic development of any country. It is linked to modes of production and lifestyles, and interacts with a wide array of development issues. It is essential in strategies to reduce poverty and to promote equitable development. All forms of economic activities including farming, industry, transport and communication require energy. Hence the supply of energy should be secure, reliable and affordable.

In ancient times, societies depended on locally available energy sources such as wood, charcoal, wind and solar, to meet their daily domestic needs while they used human and animal muscle power to satisfy their transport and other power needs.

Some traditional communities still depend on their local energy sources, in contrast to the more developed societies which have switched energy sources to

massive dependence on fossil fuels (petrol, gas and coal).

The large-scale use of fossil fuels has raised sustainability concerns such as pollution, greenhouse gases, climate change and global warming, and ozone layer depletion. Subsequently, there has been a growing environmental drive to cut down the use of fossil fuels as a result of their diverse and complex consequences.

Therefore there is increasing advocacy around the globe for investments in the development of alternative forms of energy, especially renewable energy resources. These include solar, nuclear, hydropower, tides, biomass, biofuels, wind and geothermal.

This is against a background of "green agenda" in technologies that gained momentum in the 21st Century as the impact of technology and other human



**Prof. the Hon. Dr Margaret Kamar, MP**

actions are being felt and are threatening all forms of life on Earth. This also has been driven by efforts being made by countries to achieve sustainable development.

The development of alternative energies therefore remains a choice in efforts to steer development along a sustainable path. It is also an option to clean up the environmental mess caused by pollution from fossil fuel use.

Renewable energy alternatives



are initiatives to reduce carbon emissions, conserve energy and promote sustainability as the search for a greener world and debate on climate change gain momentum in international conversations.

Renewable energies are also a blessing as they are inexhaustible sources of energy. They are replenished by natural processes.

In this regard, the development of alternative energies promises to augment profitability, help to protect the environment, conserve natural resources and address the emerging issues of sustainability as a result of the advancement in science and technology. It also helps countries meet their energy need.

**Alternative energy sources in Africa**

The major alternative energy sources in Africa are:

- Biomass,
- Solar,
- Wind,
- Hydropower,
- Tidal power,

- Geothermal and
- Biofuels.

**Biomass:** This includes firewood, charcoal, plant and animal wastes, organic raw materials and biological waste generated through burning, gasification, decay, or fermentation processes. Biomass fuels are the most important source of primary energy in Africa.

Firewood and charcoal account for over 68 per cent of total primary energy consumption in Kenya, especially in rural areas where about 80 per cent of the total population live. Population pressure, deforestation and competing land uses, such as the increase in land under agriculture, have led to dwindling supplies of wood fuel. This has led to a wood fuel crisis in rural areas requiring intensified afforestation and agro-forestry schemes.

Deforestation and burning of wood are responsible for an increase in atmospheric carbon dioxide which causes global warming through the greenhouse effect. Burning wood also emits

**Opposite page: the African sun could provide energy; Above: A tea plantation could also be a biofuel source.**

toxic products such as carbon monoxide and smoke which cause human health problems.

**Solar:** The sun's rays are converted into electricity using photovoltaic (solar) cells. Solar energy is an attractive source of energy due to its global distribution, high heat quality and inexhaustible supply. It is clean energy and does not pollute the environment; but its daily and seasonal variations call for storage facilities.

Kenya receives between four and six kilowatt hours per square metre per day of solar radiation and this offers great potential. The initial capital costs required for installation of the solar equipment have high returns.

**Wind:** This is the harnessing of wind to drive turbines. It has been used for thousands of years to propel ships, lift water, grind mills or generate electricity. It however suffers from unpredictability and its cost-effectiveness.

**Hydropower:** This is the generation of electricity using falling water and is attractive due to its flexibility of use, availability and pollution-free nature. Traditional societies have used this energy on a small scale in water wheels to grind grain.

Large hydro projects have environmental and social consequences which include loss of forest and agricultural land and the displacement of people from sites. They can affect fish population, siltation, the occurrence of water-borne problems and the accumulation of chemicals in reservoirs.

**Tidal power:** This is a form of ocean energy in which waves can be utilized for different energy applications. Kenya is strategically positioned to tap this energy resource given it borders the Indian Ocean.

**Geothermal:** It is based on the use of natural heat generated from within the Earth's crust. Its great potential in Kenya is presently harnessed to produce 128 megawatts of an estimated potential of more than 2,000 megawatts. Geothermal power is being generated at Olkaria station, near Lake Naivasha, and explorations are on-going at nearby locations. It has high potential to contribute immensely to power needs in Kenya, despite the high cost of technology to exploit the resource.

**Biofuels:** This is the energy derived from the production and use of ethanol, biodiesel, methanol and biogas generated from agricultural crops. It provides potential as a substitute for petrol in car engines. There is growing interest in this energy sector although concerns are being raised over its competition with food crops and food security issues.

**The advantages and the issues**

- They improve energy security as the diminishing stocks of oil



- make future uncertain.
- They minimize greenhouse gas emissions and hence curb global warming.
  - They enhance rural development since wind, solar, biomass and rivers are abundant in most parts of Africa.
  - Their less pollutive effects help to protect ecosystems and soils.
  - The diversity of energy sources reduce over-dependency on oil and counter oil crisis, and
  - They serve as inexhaustible sources of energy since they have the capacity to regenerate.

Certain challenges stand in the way of full exploitation of renewable energies. These include:

- High initial capital cost of investment;
- Inadequate legal and institutional frameworks to provide for their development and exploitation;
- Limited technical and

- institutional capacity to implement and manage renewable energy investments;
- Limited public awareness of the availability, benefits and opportunities of renewable energy and technologies;
  - Inadequate standards and quality assurance for most alternative energies;
  - Lack of capacity-building measures such as training, research and development, and technological transfer;
  - Inadequate integration of energy issues in development policies;
  - Lack of attention in international and regional agenda and co-operation, and
  - Limited stakeholder participation (only government dominates) in the development and implementation of energy projects and policies.

**Africa's potential in renewable energy development**

Africa suffers energy supply and

security problems yet it is richly endowed with renewable energy resources. These alternative energy potentials need to be fully exploited to enhance development in the continent. Indeed Africa has both the human and material resources that can be tapped for the exploitation of these energy resources.

The energy resource potential in Africa is characterized by the following facts:

- Abundant rivers and lakes are ideal for hydropower;
- Abundant solar energy since most parts lie within the tropics;
- Interaction between the sun and Africa's land surface always generates strong winds;
- Africa is surrounded by oceans (Indian and Atlantic) which makes tidal power ideal;
- Large deposits of mineral resources such as coal and uranium are ideal for nuclear power production;
- Africa's population stands at

- about 1 billion and provides a ready market for energy services;
- Highly skilled professionals are in the diaspora and need incentives to come and work at home, and
  - Agricultural land and forests are conducive for development of biofuels.

**The status of renewable energy in Kenya**

The Kenya Vision 2030 identifies energy as one of the enablers of the three pillars of the Vision, namely Economic, Social and Political. Subsequently, Kenya expects to use more energy in the resolve to become an industrialized nation under the Vision, and especially in the commercial sector.

Commercial energy in Kenya is dominated by petroleum and electricity as the prime movers of the modern sector while biomass provides energy needs of the traditional sector including rural communities and the urban poor.





**Left to right: Firewood used to produce biomass fuels; a solar power plant; a wind turbine; hydro-electric power station pipes; waves which produce tidal power; an erupting geyser and agricultural crops which can be used to produce biomass energy.**

Wood fuel and other biomass account for 68 per cent of the total energy consumption followed by petroleum at 22 per cent and electricity at nine per cent. Electricity remains the most sought source of energy in Kenya, and rural electrification is currently being rapidly expanded.

The major sources of electric power generation are:

- Hydro - 51.25 per cent
- Thermal oil - 30.8 per cent
- Geothermal - 17.7 per cent
- Cogeneration - 0.09 per cent
- Wind - 0.01 per cent

Crude oil is imported for domestic processing and as refined petroleum products which are mainly used in the transport, commercial and industrial sectors. Coal is mainly used in the industrial sector, particularly in the cement industry.

The hydropower potential in the country has been dramatically reduced in recent years due to shrinking water catchments,

dwindling river flows and the siltation of dams. Subsequently, high power tariffs, power rationing and the shutting down of some power stations were implemented in 2009.

In this regard, there is need to accelerate the development in alternative energy to achieve energy self-sufficiency and enhance socio-economic development. The Energy Act (2006) has recognized this fact, and empowers the Ministry of Energy to:

- Promote the development and use of renewable energy technologies, including but not limited to biomass, biodiesel, bio-ethanol, charcoal, fuel wood, solar, wind, tidal waves, hydropower, biogas and municipal waste;
- Formulate a national strategy for co-ordinating research in renewable energy;
- Provide an enabling framework for the efficient and sustainable production, distribution and marketing of

biomass, solar, wind, small hydro, municipal waste, geothermal and charcoal;

- Promote the use of fast maturing trees for energy production including biofuels and the establishment of commercial woodlots including peri-urban plantations;
- Promote international co-operation on programmes focusing on renewable energy sources;
- Harness opportunities offered under clean development and other mechanisms including, but not limited to, carbon credit trading to promote the development and exploitation of renewable energy sources, and
- Promote the utilization of renewable energy sources for either power generation or transportation.

**Conclusion**

Investments in renewable energy need fast-tracking in order to achieve sustainable energy security. Development of policies and laws to provide a framework for development and implementation of sustainable renewable energy projects is therefore essential. These policies must seek to:

- Encourage and accelerate the adoption of energy efficiencies;
- Spur the development of alternative energy resources;
- Encourage massive investment in energy resource development and use, and
- Put in place mechanisms for capacity-building in the energy sector.



# EXPANDING PARLIAMENT'S ROLE IN NATIONAL DIPLOMACY

The political turmoil that followed Kenya's 2010 election was resolved with international help – an example of foreign affairs significantly influencing domestic politics. It is therefore time for Parliaments to become actively involved in all aspects of international diplomacy as part of their duty to ensure all policies suit the nation, not just the executive, argues a leading Kenyan Member.

## Hon. Gitobu Imanyara, MP, in Nairobi.

A human rights lawyer, Mr Imanyara represents the Chama Cha Uzalendo party in the National Assembly and was first elected to Parliament in 1997. He now sits on the Speaker's Panel. This article was facilitated by the Department of Research of the Kenya National Assembly.

Since Kenya relinquished its colonial relationship with Great Britain in 1963, we have enjoyed unique international media attention for a variety of reasons ranging from our world-beating athletes and to being an "island of peace in a sea of turmoil". We have been the host nation to the highest concentration of international media correspondents covering the African continent and our tourism industry has "Anglicized" such common Kiswahili words and phrases as safari and hakuna matata.

Many international organizations including United Nations agencies are domiciled in Nairobi and our democratic tradition that saw elections held every five years enabled successive administrations from that of Founding Father Jomo Kenyatta, to Daniel arap Moi and now to Mwai Kibaki to claim that we were a "functional" democracy even though we were far from one. Persecution of dissidents and arrests and intimidation of



Hon. Gitobu Imanyara, MP.

Members of Parliament including unlawful detentions did not capture international attention. Then, suddenly, 2007 came and the country erupted into an ethnic killing frenzy that left more than 1,000 dead, several hundred injured and thousands displaced internally and in neighbouring countries, particularly Uganda.

### **International involvement in domestic politics**

Soon after the 2007 elections, the immediate devastating effects of the post-election violence led to

the intervention of the African Union through the deployment of African Eminent Persons after the initial visit by H.E. President John Kuffor of Ghana, then the Chairperson of the African Union (AU), and later H.E. Kofi Annan, Dr Graca Machel and former Tanzanian President Mr Benjamin Mkapa among others.

The need for an internationally brokered agreement became increasingly urgent and necessary in the absence of an amicable local truce and given the mistrust between the two main contesting parties (the Orange Democratic Movement and Party of National Unity) at that time, and the inherent lack of confidence and trust that justice and fairness could be obtained from the internal organs charged with dispensing justice and ensuring expeditious legal redress.

Kenya played host to numerous visits from various distinguished statesmen and leaders from the Commonwealth, African countries and beyond in attempts to bring to



an end the fast-spreading violence and destruction of property that threatened to degenerate into a bloody civil war.

These concerted mediation efforts led by the AU's Eminent Persons with the strong support of the United Nations and international community culminated into the signing of a power-sharing peace deal and, subsequently, the enactment of the National Accord and Reconciliation Act, 2008, and the formation of the coalition government in which the Kenya Parliament played a pivotal role.

The immediate post-turmoil period saw the convening and swearing in of the 10th Parliament

and required that the Kenya Parliament had to pass key legislation to give effect to a raft of proposed legal and institutional reforms that were agreed upon and contained in the National Accord agenda. These reforms were to be undertaken expeditiously to ensure that the country returned to normality and a future reversal was avoided. We experienced an overwhelming flow of support from the international community including the United States, the European Union, Japan, Britain and other world powers.

President Kibaki, Prime Minister Hon. Raila Odinga, National Assembly Speaker Hon. Kenneth Marende and indeed

Members of the 10th Parliament have had to handle a packed reform-based parliamentary agenda. Parliament has in the last two years, debated and passed legislation and policies with far-reaching and intricate local, regional and international implications within very strict timeframes. However, times have changed after the Cold War and so have the challenges before Parliament.

#### **Parliament and strengthening regional and international relations**

The issue is to establish the role of the National Assembly in the foreign and international relations

#### **An aerial view of the Kenyan Parliament building.**

of an African country in times when in effect the internal circumstances are heavily weighed upon by global factors or events and vice versa. The roles of the East African Community, the African Union and the Pan-African Parliament are mere specifics in this matter. They are treaty-based and govern particular inter-African relations.

The East African Community (EAC) is an intergovernmental organization comprising of the five East African countries: Burundi, Kenya, Rwanda, Tanzania and



Uganda. It covers an area of 1.8 million square kilometres. It was originally founded in 1967, collapsed in 1977 and was officially revived on 7 July 2000.

In 2008 after negotiations with the Southern African Development Community (SADC) and the Common Market for East and Southern Africa (COMESA), the EAC agreed to an expanded free trade area including the member states of all three. It serves as one of the pillars of the African Economic Community.

The EAC aims at achieving its goals and objectives through promotion of sustainable growth and the equitable development of the region including rational utilization of the region's natural resources, while protecting the environment. It also seeks to strengthen and consolidate the longstanding political, economic, social, cultural and traditional ties and associations between the peoples of the region in order to promote people-centred mutual development.

It further seeks to enhance and strengthen the participation of the private sector and civil society, and to mainstream gender in all its

programmes including enhancing the role of women in development, promotion of good governance, democracy, rule of law, accountability, transparency, social justice, equal opportunity and gender equality. Lastly it promotes peace, security and stability within the region.

The Pan-African Parliament (PAP) was established in 2004 by Article 17 of the Constitutive Act of African Union. This was mainly meant to serve the following objectives: to facilitate implementation of the policies and objectives of African union; to promote the principles of human rights and democracy in Africa, and to encourage good governance, transparency and accountability in the member states.

The Pan-African Parliament was also meant to familiarize the people with the objectives and policies aimed at integrating the African continent within the framework of the establishment of the AU; promote peace, security and stability, contribute to a more prosperous future for the people of Africa by promoting self reliance and economic recovery, facilitate

**President Kibaki (seated left) and Prime Minister Odinga (seated right) while signing the National Accord and Reconciliation Act in 2008. Former UN Secretary General Kofi Annan (Standing, second left), who brokered the deal, looks on. Also present was Tanzanian President H.E. Jakaya Kikwete (Standing, left).**

cooperation and development in Africa.

It further seeks to strengthen continental solidarity and build a sense of common destiny among the African people. Finally it aims to facilitate co-operation among regional economic communities and their parliamentary fora.

The African Union has several objectives: to achieve greater unity and solidarity between the African people and the states of Africa; to defend the sovereignty, territorial integrity and independence of its member states; to accelerate political and socio-economic integration of the continent; to promote and defend the African position on issues of interest to the continent and its people; to

encourage international co-operation; to promote peace, security and stability of the continent; to establish necessary conditions which enable the continent to play its role in the global economy and in international negotiations, and promote sustainable development at economic social and cultural levels as well as integration of African economies.

It is also to promote democratic principles and institutions, popular participation and good governance, promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments.

The African community also aims at promoting co-operation in all fields of human activity to raise the living standard of African people, coordinate and harmonize policies between existing and future regional economic communities for the gradual attainment of the Union's objectives, advance the development of the continent by promoting research in all fields, in particular science and technology, and to work with all relevant international partners in the eradication of preventable diseases and promotion of good health on the continent.

### **Why Parliament has an international role**

The real question that really begs an answer is what is the place of Parliament in the important function of foreign and international relations to an African country like Kenya?

In many jurisdictions, constitutional practices and traditions give the executive the monopoly of all principal processes of foreign policy including formulation, execution, oversight and review or restructuring. The National Assembly is often made to play the subsidiary roles of budget provision for foreign relations, the approval of budgetary



votes of key embassies or requisite adoption or approval of treaties or agreements entered into by the executive and its agents or review of treaties and relations in which the National Assembly plays a part.

Historically, the National Assembly has been relegated to performing post-mortem roles of foreign relations and policy formulation and execution. International relations, positively or negatively, affect internal power relations – both the development and the well-being of a country. Therefore, it is too important to be left entirely to the executive arm of government.

However, foreign relations have the potential to help strengthen the positive support and inputs required to accelerate the pace of development in African countries and to bolster specific internal techno-developments.

In the case of Kenya, international relations played a fundamental role in containing the internal devastating post-election situation that threatened to dismantle Kenya's political and socio-economic stability and fabric. The role and centrality of the Kenya Parliament cannot be questioned in this regard.

It remains imperative to ensure from the outset that the government and Parliament subject foreign relations to the needs of popular national interest. Parliament has a constitutional mandate and plays a critical role in enacting legislation, formulating policies and approving programmes for foreign and international relations together with the elected executive. It also has a primary duty of oversight of execution of policy and its regular appraisal. But Parliament's participation goes beyond mere policy formulation. Parliament ought to actively participate in negotiations. In the past, Kenya's Parliament has not been adequately involved in such negotiations.

Parliament as a sovereign Assembly of elected representatives offers deliberative and consultative bases through its plenary debates and relevant committees for the continuous oversight of Foreign Ministry operations, including the scrutiny of the budget for the different embassies, the periodic review, restructuring and the overhaul of foreign policies and activities undertaken by missions abroad.

This constitutes the ideal scope of the National Assembly's involvement in the democratic co-determination and execution of effective and cordial foreign relations.

### **Growth of parliamentary democracy**

Over the years, despite constitutional and state practice limitations, National Assemblies are evolving greater involvement in governance and so are rightly asserting their due role in the conduct of foreign relations. Parliamentary diplomacy is a necessity in Africa's development. Parliamentary diplomacy complements regional and international governance systems in a very unique and productive manner, achieving immediate value.

The incremental assertion of the role of National Assemblies beyond that of intra-African treaties and historical relations is exemplified by the increasing recognition of and vibrant participation by many nascent Legislatures in international parliamentary bodies such as the Commonwealth Parliamentary Association and the Inter-Parliamentary Union.

Relevant House Committees have formulated working plans that recognize the need to deliberate and consult on policies affecting diverse issues of foreign relations and ensure adequate participation and funding is available. The watchdog committees also play their oversight role in ensuring

there is value-addition and the intended objectives are met so voted funds are used appropriately and prudently.

Parliaments have increasingly embraced the culture of exchange of visits to identify, formalize and intensify Parliament's engagement in foreign economic relations. Moreover, the Kenyan Parliament is conscious of the fact that the diversification of economic partnerships by countries is paying dividends. The Kenyan Parliament is increasingly sending delegations to non-traditional trading partners to the East including China, Japan, Korea and Russia to explore the possibility of establishing new and more appropriate bilateral trade partnerships.

Kenya's Parliament has of late initiated and had direct engagements with developed countries' Parliaments in such places as the United States, the United Kingdom and Turkey. It has also engaged with regional and international organizations such as the International Monetary Fund, the African Development Bank and the World Bank to deepen its understanding of the operations of these institutions, given their significant contribution to the country's financial and economic growth.

Parliamentary diplomacy has proved to be effective in strengthening regional relations, addressing peace and war questions. Kenya's Parliament continues to play a critical role in regional conflict resolution through activities of its parliamentary committees and peace caucuses. In particular, the Somali and southern Sudan questions remain key areas of interest to the Kenyan Parliament. The United Nations, the African Union and our region's Intergovernmental Authority on Development have been quite instrumental.

### **What should Parliaments do?**

The monopoly in matters of

diplomacy formerly held by the executive could be detrimental in the practice of contemporary diplomacy because of inherent drawbacks and limitations. Executive-dominated diplomacy can be prone to becoming a personal vehicle of the executive, subject to abuse in favour of executive power instead of being a national instrument and asset.

Yet it is imperative that balance in exercising diplomacy finds expression in internal and external policies and must be realized in a country's architecture of governance. Therefore, even when constitutional provisions or practices hitherto have not supported active parliamentary diplomacy, it is currently imperative that Parliament plays a more proactive role.

Relations between the National Assemblies and the executives in internal governance matters have to go beyond ritual co-determination of governance. Internal and external affairs have to be made real in order to build requisite capacities to leverage modernization and development in the very difficult matter of international affairs.

National Assemblies have to face up to the realities of contemporary foreign relations. They must build political, legal and constitutional capabilities to address this issue more effectively. There is a need for structural and leadership transformation to recognize parliamentary diplomacy as a new frontier of Parliament's strengthening role in governance.

House Committees need to be restructured and enhance their financial and managerial capacities so that they attract the necessary technical and professional support services, both internal and external expertise.

There is also need to beef up Parliaments' research sections to place international law and international trade experts at the command of Members.



# MAKING THE COALITION WORK IN PARLIAMENT

Political and procedural issues have arisen during the life of the current Coalition government which have been handled in the House through Speaker's rulings that reflect the spirit of the accord between Kenya's political party, records the Clerk of the House.

## Mr Patrick G. Gichohi in Nairobi.

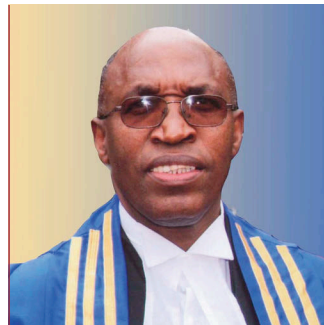
Mr Gichohi is the fourth Clerk of the National Assembly since Kenya's independence in 1963. Prior to his appointment in May 2008, he was the acting Clerk, having served as Senior Deputy Clerk and in numerous other posts since joining the National Assembly in 1979. Mr Gichohi has published many parliamentary papers, including: *Guidelines on Being an Effective parliamentarian* (2003), *A Guide for Effective Parliamentary Committee Membership* (2006) and *Considered Speaker's Rulings: Parliament of Kenya 1963 – 2007*.

### The Coalition

On 27 December 2007, millions of Kenyans went to the polls with the hope of strengthening the institutions of democracy. An estimated 14.2 million (82 per cent of the total eligible voters) were registered to vote, while 2,547 parliamentary candidates ran in 210 constituencies where winners were to be declared on a first-past-the-post basis.

The main parties were the Orange Democratic Movement (ODM), Orange Democratic Movement- Kenya (ODM-K) and the Party of National Unity (PNU). Nine candidates contested the presidency. Opinion polls had predicted a close race between the incumbent PNU's Hon. Mwai Kibaki and Hon. Raila Odinga of ODM. On 30 December, President Kibaki was declared winner of the presidential vote by the then Electoral Commission of Kenya. Violence in many parts of the country where ODM had strong support followed the announcement, leading to more than 1,000 deaths and an

estimated 600,000 people reportedly being displaced.



Mr Patrick Gichohi

Before negotiations between the two main parties to form the coalition which we have today, the President's PNU party entered into a political partnership with the ODM-Kenya, a party whose presidential candidate, Hon. Kalonzo Musyoka, had secured the third position in the presidential race. Mr Musyoka was then appointed the Vice-President of Kenya, a position he still holds to date. The President, however, left

some ministerial positions vacant. In February, the PNU affiliates and ODM began negotiations under the guidance of former United Nations Secretary-General Dr Kofi Annan. Dr Annan brokered a power-sharing agreement on 28 February which led to the formation of a coalition government. The parties agreed to resettle victims of the post-election violence and write a new constitution. Parliament, for its part, unanimously approved the Coalition Agreement and amended the constitution to entrench the National Accord on 18 March. Mr Odinga was named Prime Minister, a position created by the Accord, to co-ordinate and supervise the execution of government duties. The coalition cabinet was unveiled in April.

### Coalition issues

One characteristic of coalitions is divergent thinking. The Kenya Coalition has not been an exception. The coalition parties feuded over the sharing of cabinet positions. However, this was



**Left: The Mace of the Kenyan  
Parliament.**



resolved when the President and Prime Minister took a retreat away from the public glare which resulted in them agreeing on a 40-Member cabinet.

on 15 January 2008. Pursuant to the constitution and the National Assembly Standing Orders, the first business of the new House was to elect a Speaker and Deputy

presided over the closely contested elections in which Hon. Kenneth Marende, MP, was declared the Speaker on the third round of the voting after obtaining

### **Procedural challenges from the start**

After the Speaker assumed the Chair, he was faced with procedural questions even before he could commence his first duty of administering the oath of office to the Members, including the President. The new Speaker had to make his first ruling barely one hour after his election.

The solemn question before the Speaker was why he should administer the oath to the President first as his name did not



**“The Kenya Coalition has immensely benefited from past and present lessons from the members of the Commonwealth family...”**

top the alphabetical list of Members. Further, it was argued that the results of the presidential election were still being contested.

Public confidence in institutions of governance shifted to Parliament and its presidium when the Speaker delivered his ruling: in administering the oath, he would follow the list as tabled by the Clerk which traditionally puts the name of the President on top followed by the other Members in alphabetical order. Since then, Parliament has played a complementary and supportive role in resolving coalition issues, whenever they arise.

On the question of whether he should administer the oath to the President as election results were in dispute, the Speaker ruled that pursuant to the Promissory Oaths Act, all Members and the Speaker are bound to take the oath of office and that he was only swearing in Members of Parliament and not

The next hurdle was in harmonizing the party manifestoes. A manifesto forms the basis for crafting government policy to steer development. But their manifestoes differed, for instance, in governance and devolution of resources. A compromise was reached.

The parliamentary leadership has been fundamental in fusing together the coalition members.

The Tenth Parliament convened

Speaker. The Speaker would thereafter preside over the House and administer the oath or affirmation of allegiance to the Members-elect. There was an obvious face-off between the parties in the House whose candidates were garnering support for the Speakership. As in the presidential elections, the position was closely contested.

In accordance with our Standing Orders, I as Clerk

**Above: Kenyan President H.E. Hon. Mwai Kibaki, CGH, MP.**

105 votes against Hon. Francis Kaparo, the former Speaker, who received 101. No candidate had obtained the mandatory two-thirds of the votes of all the Members of the House in the first and second rounds.





the President and that he was duty bound by the Standing Orders to discharge this duty.

Whilst upholding the need to steer clear of any Coalition differences to remain impartial, the Speaker has on various occasions not only reminded the Coalition cabinet Members of their collective responsibility, but also encouraged honest and healthy debate in the House. This is evident in the lively and free debate and sometimes opposing views fronted by the Members of the Coalition in the House. The Speaker has always guided the House, including Ministers, that the Chamber provides a unique and opportune place for all Members to debate issues of national and international importance.

### **New rules to accommodate a new reality**

Another factor that helped to fuse the Coalition was the review of the House's rules of procedure to reflect the shift in the political paradigm. Issues arose on the composition and chairing of the all-important committees of the House. The Standing Orders (rules of procedure) provided that oversight committees such as the Public Investments Committee, the Public Accounts Committee and the Budget Committee should not be chaired by Members whose parties are in government. In a House of 210 elected and 12 nominated Members, only one Member fulfilled this requirement. Could he chair more than three committees? In resolving this issue, the leadership of the House was guided by the wording of one of the instruments of the Coalition: "these are extraordinary times that require extraordinary measures". The Speaker recognized that, even with most parties being part of the Coalition, the Back Bench was eager and able to assume the role of the opposition. Thus the House allowed the Back Bench to chair such committees, notwithstanding that their parties were in

government. The Speaker has been vindicated as committees have worked in a non-partisan manner in discharging their mandate.

On review of the Standing Orders, new provisions were introduced, such as the Prime Minister's Time and the procedure for formation and recognition of opposition caucuses. The Coalition has constantly utilized the opportunities provided by the new rules of procedure to showcase its determination to remain true to the Accord.

One of the milestone rulings by the Speaker impacting on the Coalition was on the chairing of the House Business Committee. Being the committee that decides the agenda of the House, its appointment is the first business of the House in each new Session. While rules of procedure provide that the Chair "shall be a person nominated by the government", at the commencement of the Third Session, the Coalition appeared divided on the chairing of the committee. Each Coalition partner submitted a name of a Member to chair the committee on the basis that each partner was in government. Failure to constitute the committee threatened the smooth running of House business.

Once again, attention turned to the Speaker to resolve the crisis. After lengthy deliberation, the Speaker, who is an ex-officio Member of the Committee, ruled that he would assume chairmanship on a temporary basis while awaiting a common position by the Coalition. It was a popular ruling. The Speaker has continued to chair the House Business Committee on a temporary basis as he awaits the resolution of the matter.

The Kenya Coalition has immensely benefited from past and present lessons from the members of the Commonwealth family which have had similar experiences. These lessons have

gone a long way in helping to avert discord and resolve disputes.

### **Constitutional reform**

The clamour for a new constitution started more than 20 years ago. Since then, attempts by each successive government have borne no fruit. In 2005, the process suffered a blow when the national referendum rejected a proposed constitution.

After the Coalition's formation in 2008, the partners undertook to steer constitutional reform as part of Agenda Four of the Coalition Agreement (Long-Term Institutional Issues). On 4 March 2008 and in a display of commitment to the process, a week after the signing of the Coalition Agreement, the National Dialogue and Reconciliation Team unveiled a roadmap detailing their agenda on constitutional reforms.

In the roadmap, the parties accepted that the constitution belongs to the people of Kenya who must be consulted constantly at all key stages of the process, including the formation of the process, the draft constitution, the parliamentary process and the final enactment. The roadmap identified five stages of the reforms, including: the establishment of statutory constitutional review instruments, the enactment of the referendum laws, the preparation of a comprehensive draft constitution, parliamentary approval of the proposed draft and, finally, putting the proposed constitution to the people for consideration and approval through a referendum.

Indeed, constitutional reform is believed to be key to providing the long-term institutional reform necessary to promote harmony and political, administrative, social and economic development. In part, the Commission on the Post-Election Violence in Kenya stated in their final report:

*"Kenya's constitutional and legal framework relating to elections*

*contains a number of weaknesses and inconsistencies that weaken its effectiveness. This legislation needs urgent and radical revision, including consolidation. ... The conduct of the electoral process was hampered and the electoral environment was polluted by the conduct of many public participants, especially political parties and the media."*

### **Keeping everyone together**

Finally, all along, the preamble to the National Accord and Reconciliation Act, 2008, has constantly guided the Speaker and the House in resolving any Coalition issues that may arise in the House. In part, the preamble states:

*"Given the current situation, neither side can realistically govern without the other. There must be a real power-sharing to move the country forward and begin the healing and reconciliation process. With this agreement, we are stepping together as political leaders, to overcome the current crisis and to set the country on a new path. As partners, we commit ourselves to work together in good faith as true partners, through constant consultation and willingness to compromise. This Agreement is designed to create an environment conducive to such partnership and to build mutual trust and confidence. It is not about creating positions that reward individuals. It seeks to enable Kenya's political leaders to look beyond partisan considerations with a view to promoting the greater interests of the nation as a whole. It provides the means to implement a coherent and far-reaching reform agenda, to address the fundamental root causes of recurrent conflict, and to create a better, more secure, more prosperous Kenya for all."*

This, in a way, has glued the Coalition government together in Kenya.



# DEVELOPING KENYA'S ECONOMY IN THE CURRENT WORLD FINANCIAL SITUATION

Despite the government's efforts in implementing new political and economic reforms, the Senior Deputy Clerk of the National Assembly of Kenya argues that the administrative, legal and constitutional reforms too need to be addressed in helping the country work through the current climate and ensure that its economy is strong enough not to be undermined should the global situation arise once again.

**Mr P. C. Owino Omolo in Nairobi**  
Mr Owino Omolo is the Senior Deputy Clerk of the National Assembly of Kenya.

Immediately after independence, Kenya preferred a mixed economy in which the government allowed private sector participation alongside state-owned companies. It was fashionable then for young nations to adopt a socialist planned economy as they had no competent indigenous entrepreneurs to run modern commercial enterprises. Government ownership of some strategic corporations was justified because they were too sensitive to be left in private hands.

A majority of the current prominent indigenous entrepreneurs in Kenya therefore are a creation of the state. During colonialism, indigenous communities were not allowed to



**Mr P.C. Owino Omolo**

acquire and own certain types of property and if they did, not anywhere of their choice. State-owned enterprises thus played a key role in assisting them to acquire capital, land, skills and

experience for running modern enterprises like banks, hotels, insurance and construction companies, etc.

However, during the so-called lost decade of Africa (circa 1980 – 1990) leaders in several countries engaged in recruiting some of their close associates to run lucrative state-owned enterprises. These associates did not necessarily have the requisite technical competence, managerial skills and business acumen to manage modern corporations operating in a competitive globalized and dynamic environment allergic to sloth, lethargy, inertia and insularity. They felt entitled to shamelessly use state machinery to enrich themselves at the public expense.



**After independence**

Such an economic system was unsustainable. Consequently, the strong economy Kenya inherited at independence started to shrink. Seeking external resources to finance the budget became imperative. The World Bank and its affiliates recommended painful structural adjustment programmes

pass the bad, retrogressive, repugnant and draconian laws.

The re-introduction of multi-party politics in 1991 was expected to lead to the creation of a modern democratic state with a thriving economy. Several new Acts of Parliament were passed to create an enabling environment for fast economic growth, healthy

**Changing the economic forecast**

Kenya, therefore, seeks to develop its economy in the current world financial situation by strengthening all its national institutions to effectively and efficiently discharge their legal and constitutional obligations. Kenya is affected by what happens elsewhere in the

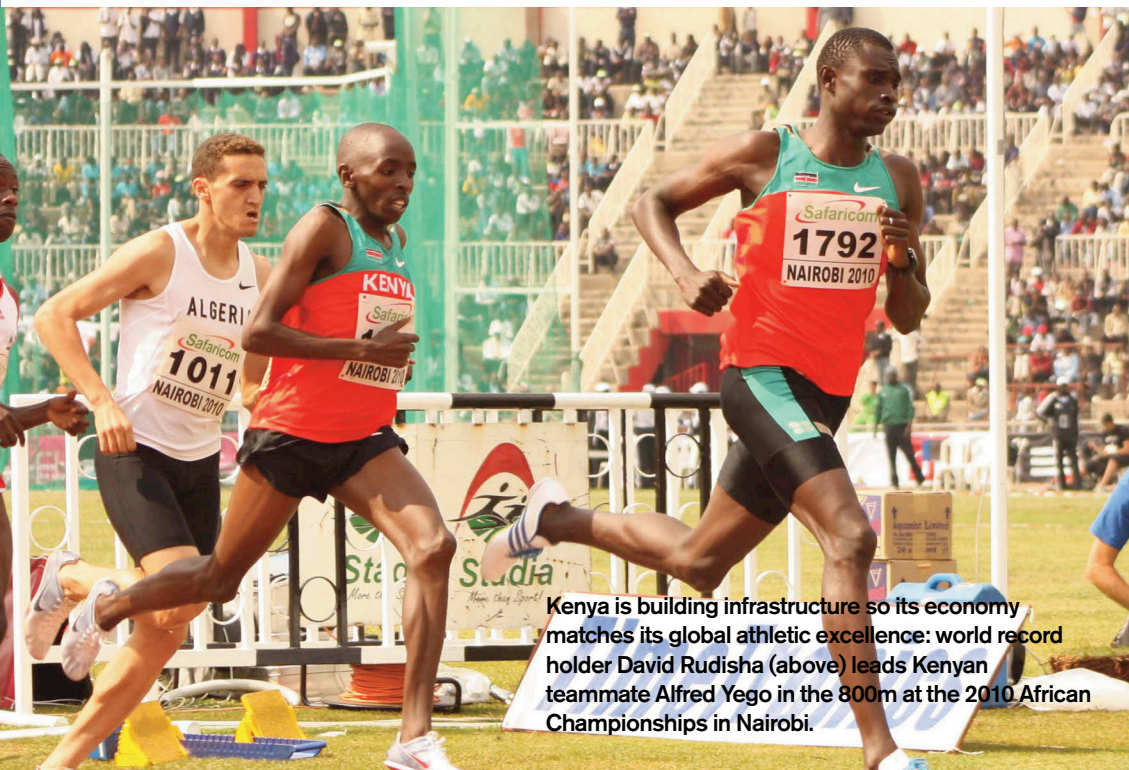
economic, social and political governance. Vision 2030 is a long-term development blue-print to make Kenya a middle income country by achieving:

- A globally competitive and adaptive human resource base to meet the requirements of a rapidly industrializing economy. This will be done through life-long training and education;
- The top-shopping destination in Africa. Business Process Outsourcing will become the sector of choice for employment among the youth; and
- An adequately and decently-housed nation in a sustainable environment.

Kenya has the potential to grow and become an industrial and prosperous country as was demonstrated between 2005 and 2007 when it grew at more than five per cent per annum. Its inability to maintain high levels of growth is attributed to the bad politics and poor governance evidenced by the 2007 General Elections fiasco.

In the national budget of 2009/2010, the Government crafted and implemented its own economic stimulus package to make the economy more robust by focusing on the following areas:

- Building produce markets in the countryside for the locals to sell their agricultural products;
- Establishment of an industrial development centre in every constituency;
- Establishment of viable fish farming enterprises in 140 constituencies;
- Establishment of a modern health centre in every constituency;
- Establishment of a modern well equipped secondary school in every constituency;
- Rehabilitation and expansion of irrigable lands to increase food production; and



**Kenya is building infrastructure so its economy matches its global athletic excellence: world record holder David Rudisha (above) leads Kenyan teammate Alfred Yego in the 800m at the 2010 African Championships in Nairobi.**

which forced the government to sell off non-performing or non-strategic parastatals to private interests. Price controls were removed and the government left the market forces to determine economic activities. Its role in economic management was confined to passing the enabling legislation to guide the market place. This was done in tandem with pushing for political reforms. In the absence of the opposition, state resources had been used like private property by the ruling elite who controlled all the armed forces and public appointments. Such absolute power enabled corruption as the elite held the state in captivity paralyzing nearly all institutions. None of this was illegal because Parliament was used to

plural politics and good governance.

However, the events surrounding the 2007 General Elections vividly laid bare Kenya's institutional weaknesses and democratic deficit.

Kenyans are now debating on how to implement the new constitution which would create strong institutions necessary for the sound political and prudent economic management of a modern state with sufficient capacity to enforce laws without fear or favour.

A state with weak institutions can still generate tremendous wealth but will ultimately fail to distribute that wealth equitably. This may ultimately cause its disintegration.

world. The global financial meltdown thus reduced the revenue receipts from tourism and exports. Money is the wheel of trade and its management is critical for the sound running of an economy. The financial regulatory authorities like the Central Bank, the Capital Markets Authority and the statutory instruments for managing public finance, the stock market, government procurements, auditing, etc. must be strengthened to reduce or eliminate waste, idle capital or fraud and embezzlement of public funds. The threat of rebellion against any government is real if it does not manage the economy well. That is why Vision 2030 launched by the government last year, identified three pillars to anchor national development, viz,



The tourism industry in Kenya – from safari tours to idyllic beaches – play a major role in the country's economy.



- Purchasing of mobile computer laboratories so as to establish digital villages country-wide.

In the 2010/2011 budget, the government promised to focus on the following areas in order to further improve the economy:

- Promoting agriculture by expanding irrigation to attain food security and rural development;
- Encouraging growth of industries and small and medium enterprises for employment and income generation;
- Strengthening financial systems for sustainable development;
- Deepening tax reforms and enhancing governance; and
- Promoting development of property market and enterprise.

The lack of well structured implementation arrangements have been a challenge to the

successful implementation of government programmes.

In 2003, the government enacted the Constituency Development Fund Act to channel directly 2.5 per cent of the total ordinary national revenue annually to the 210 constituencies. Bursary and the Road Levy funds are also allocated directly to constituencies. These devolved funds are intended to achieve equity in development between the regions, assist in employing artisans, capitalize rural-based enterprises and help in poverty alleviation. Through the Youth Development Fund, the government plans to conduct tailor-made courses on entrepreneurship, writing of a business plan and afford basic capital for young people keen to start small scale enterprises.

Kenya has a small domestic market that does not matter much in the current global trading arrangement. It therefore believes strongly in regional trade agreements and thus belongs to the East African Community which brings together the five East

African countries comprising Kenya, Uganda, Tanzania, Rwanda and Burundi. They intend to abolish customs duty, have one currency and ultimately attain political federation. Kenya also belongs to COMESA (Common Market for Eastern and Southern Africa) and actively participates in the World Trade Organization negotiations. It hopes to take advantage of these regional trading blocks to access the expanded market of over 100,000,000 people duty free. It further hopes to expand domestic consumption and boost regional trade to avoid dependence on exports to distant markets which is replete with several global vicissitudes.

In addition to carrying out these bold political and economic reforms, Kenya must institute thorough administrative, legal and constitutional reforms immediately. As already observed above, the new constitution, would make impunity a thing of the past. Free enterprise requires strict observance of laws. Capitalism can only thrive in an environment

where personal freedom, hard work, technical competence, commercial fairness and political competition are respected and the government's legitimacy is based on winning an election whose results are acceptable to all.

### **Responding to the challenges**

Kenya is a rich country by all standards. For example, it collects about 20 per cent of GDP in taxes whereas its neighbours can only manage about 12 per cent. However its weak governance has caused the fiduciary risk to be high and thus investors, both foreign and local, often add these costs to their services and products making government contracts expensive. This increases the cost of doing business. The government has responded to this challenge by instituting bold administrative reforms so that public service is not regarded as a cash cow any more. It is when the public service is run by competent, experienced, honest and non-partisan bureaucrats that the private sector can deliver by



taking calculated risks to invest in technology, training and capital mobilization to create wealth and generate jobs. Return on capital should not just be healthy but also predictable. In case of a dispute between private companies or against the State, the justice system must be able to immediately deliver fair and just judgment. Justice delayed is injustice done and that alone is sufficient to scare away capital.

The government has, therefore, come up with a raft of legislation to assist in ensuring that public officers behave in a manner that befits their status. The Public Officer Ethics Act (2003), the Anti-Corruption and Economic Crimes Act (2003), the Public Procurement and Disposal Act (2005), the Government Financial Management Act (2005), the Fiscal Management Act (2009), etc, have been passed to ensure public officers observe integrity while discharging their official duties. The Kenya Anti-Corruption and Economic Crimes Act was established to investigate

corruption cases and forward its recommendations to the Attorney General for prosecution. It has also the mandate to advise government agencies on best practices in managing public affairs and avoiding tendencies that may lead to corruption.

One key political reform was the 1999 constitutional amendment which created the Parliamentary Service Commission. The Commission hires and fires its own staff without having to refer to anybody. Consequently, the National Assembly has developed a formidable capacity in its human resource base by employing highly trained economists, financial (tax) experts and analysts, lawyers, researchers, I.C.T. specialists and of course Clerks to assist Parliament interrogate the budget, Bills, government policies, projects and programmes to ensure there is discipline and prudence in managing public resources. The judiciary has responded to the reform spirit by creating a Commercial Court Division to

assist in settling commercial disputes quickly. A Special Court has also been established to try people accused of corruption.

In order to cascade these reforms and maximize their impact, application of ICT is crucial in fast-tracking some government procedures like tax returns, acquiring procurement forms online to bid for government tenders and making government operations more transparent and less bureaucratic. The government has also urged every Ministry and department to produce their Strategic Plan and Service Charter and host their own website to inform the public the services they deliver and how they can be accessed.

### **Conclusion**

The financial crisis in the rest of the world means fewer inflows of resources into the country including remittances by Kenyans in Diaspora. This leads to fewer resources at the domestic level which may impact adversely on local investment. On the other

hand, the government may not get the usual support from development partners who are also busy sorting out their own domestic economies. As a result, the country needs to place more focus on domestic resource mobilization strategies while sealing several loopholes in tax collection, prioritizing efficiency and a cut back on the deficit through reduction in government spending.

The lack of transparency in the financial markets, governments' inability to keep abreast with financial innovations combined with elements of personal greed and corrupt practices in developed countries led to the current world financial meltdown.

All these reforms in Kenya are aimed at avoiding mistakes of the past in managing the economy. By reviewing its history, Kenya can institute good governance as a means of ensuring that its economy is sound and solid so that it is not easily undermined by turbulent events taking place far away from its shores.



# KENYA'S POSITION ON TRADE AND ITS LONG TERM AGRICULTURAL POLICY GOALS

Kenya's position on world agricultural trade is based on World Trade Organization rules and economic partnership agreements, while the country's agricultural policy goals consider emerging sales and marketing patterns.

## Department of Research, National Assembly of Kenya.

Kenya and other developing countries have traditionally exported commodities in raw form to developed countries. The developed nations have always resisted efforts by developing countries to add value through processing. Any attempt at processing has been met with tariff escalation thereby making the exports less competitive. This has led to the slow development of agro-based industries and a loss of earnings.

Kenyan commodities prone to tariff escalation include tea, coffee, pyrethrum, cotton, soya beans and sunflower. Others are plums, citrus fruits, bananas, watermelon, cashew nuts, cassava, sweet potatoes, French beans, carrots, tomatoes, onions and mushrooms. In 2008, export earnings from food and beverages accounted for 40.4 per cent of total domestic export

earnings. In the same year, the exports share to the African continent was 47.1 per cent, a two percentage point increase from the previous year. Exports to the Common Market for Eastern and Southern Africa (COMESA) region accounted for 68.5 per cent.

Kenya's earnings from agricultural trade have grown at an average rate of 10.3 per cent over the past 10 years. The main drivers are tea, coffee and horticultural products (cut flowers). The country, however, experienced negative growth in earnings in 2001 while in 2005 it recorded the best growth posting 18.6 per cent (see table 1).

Kenya's position on the WTO The World Trade Organization (WTO) is responsible for overseeing the multilateral trading system through trade agreements. Other roles include a forum for trade negotiations, settling

disputes and reviewing national trade policies. Kenya is a founder member of the WTO and is bound by all trade agreements and intellectual property rights.

Kenya participates in all major WTO trade talks and maintains a strong negotiating team in Geneva.

Currently, Kenyan negotiators are guided by the following objectives:

- Improved market access for primary and processed products;
- Caveat rules for special products aimed at addressing Kenya's concerns with respect to food security, rural development and livelihoods;
- Meaningful modalities to protect domestic production from upsurge in imports;
- A credible end date for elimination of export subsidies;



- Substantial reduction in domestic support with the necessary flexibility for developing countries;
- Effective special and differential treatment on all modalities, and
- Immediate elimination of export subsidies and domestic support on cotton.

The overall objective is to establish a market-oriented agricultural trading system that

facilitates fair competition for farmers in both developed and developing countries. The WTO establishes a programme for gradual reform of agricultural trade, which comprises specific commitments to reduce support and protection in domestic prices, export subsidies and market access.

**Domestic support**

The following elements form this pillar:

- Overall Trade Distorting Support: Kenya's position is that major subsidizers reduce their overall trade distorting support to the lowest level (U.S.\$ 13 for the U.S.) to enable fair competition.
- Final Bound Total Aggregate Measurement of Support (AMS): Kenya does not provide any domestic subsidies to its farmers, though it would benefit from article 6.2 of the WTO agreement that

**Above: Workers pick tea leaves at a farm in Limuru.**



**Table 1: Trends in Agricultural earnings for the past 10 years**

Commodities	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Fish and fish preparations	2267	2953	3858	4205	4010	4178	4607	3971	4117	5131
Maize (raw)	488	33	18	1693	125	246	289	360	563	473
Meals and fours of wheat	423	201	155	32	6	1	3	17	19	95
<b>Horticulture</b>	<b>17,641</b>	<b>21,216</b>	<b>19,846</b>	<b>28,334</b>	<b>36,485</b>	<b>39,541</b>	<b>44,707</b>	<b>48,813</b>	<b>56,808</b>	<b>71,182</b>
Coffee, unroasted	12,029	11,707	7,460	6,541	6,286	6,944	9,061	9,138	10,425	10,126
Tea	33,065	35,150	34,485	34,376	33,005	36,072	42,372	47,349	46,754	63,812
<b>Tobacco and tobacco manufacturers</b>	<b>1554</b>	<b>2167</b>	<b>2887</b>	<b>3454</b>	<b>2982</b>	<b>2951</b>	<b>5137</b>	<b>7869</b>	<b>8532</b>	<b>9053</b>
Hides and skins	311	494	635	445	551	956	866	622	143	40
Sisal	636	606	728	792	906	1119	1182	1248	1389	1495
Pyrethrum extract	656	704	993	798	813	943	1122	1086	127	-
Leather	501	486	576	601	1018	1115	1611	1971	3036	3313
Textile yarn	303	713	518	483	394	349	1052	712	594	551
<b>Grand total</b>	<b>69,874</b>	<b>76,430</b>	<b>72,159</b>	<b>81,756</b>	<b>86,581</b>	<b>94,415</b>	<b>112,009</b>	<b>123,156</b>	<b>132,507</b>	<b>165,271</b>
<b>Growth rate</b>		<b>9.38%</b>	<b>-5.59%</b>	<b>13.30%</b>	<b>5.90%</b>	<b>9.05%</b>	<b>18.63%</b>	<b>9.95%</b>	<b>7.59%</b>	<b>24.73%</b>
<b>Average growth</b>	<b>10.33%</b>									

Source: Economic survey reports: 1999-2009

allows input subsidies for low income, resource-poor producers.

- De-Minimis: Kenya alongside other developing countries has no final bound AMS. Kenya however is exempted from the reduction of de-minimis.
- Blue Box: Blue box subsidies are directly linked to acreage or animal numbers. They are payment programmes that are common in the European Union and the United States. Kenya, being a net food importer, fully supports this proposal as it gives the country the opportunity to schedule product-specific blue box entitlement and flexibilities.
- Green Box: Kenya supports the inclusion of additional

programmes in the green box subsidies aimed at improving agricultural production.

- Cotton Exports: Kenya supports elimination of export subsidies by a date earlier than 2013, and it supports technical and financial assistance and the provision of a safety net against cotton export losses arising from fluctuations in international prices. This is likely to revive Kenya's cotton subsector.

**Market access**

Kenya has supported a higher range of tariff cuts of up to 54 per cent for developed nations to enhance market access. The country does not intend to designate any products as

sensitive. But it lobbies for sensitive products to be linked to preference erosion, where members are given an opportunity to determine their own list of sensitive products and enter bilateral agreements.

The Hong Kong Ministerial Declaration allows developing countries to self-designate special products based on rural development, food and livelihood security. Kenya hopes to enjoy an exemption from tariff cuts for a large number of agricultural products that affect the above.

Kenya's position is that all agricultural products should have access to special safeguard mechanism (SSM). The mandate on tropical products states that liberalization will encourage higher tariff reductions. This means that

Kenya's horticulture produce will receive preferential treatment.

Kenya supports the tariff escalation model to include processed products faced with tariff increases in the country's major export markets.

**Export subsidies**

Kenya advocates that all forms of export subsidies be eliminated by 2013, half by this year. It fully supports 360-day repayment period for less developed countries and net food importing developing countries. In exceptional circumstances 540 days as these provides Kenya with special and differential treatment. But the challenge is defining the terms and conditions for acceptable financing, the limit on the





Coffee is one of the country's main commodities.

repayment period and the self-financing requirement for finance programmes.

State Trading Enterprises (STEs) target firms like the Pyrethrum Board, the Kenya Meat Commission and the Kenya National Trading Corporation. Kenya supports STEs' exemption from discipline in order to develop production, value addition, commercial exports and imports in the respective subsectors.

In relation to food aid, Kenya supports monetization of non-emergency aid to LDCs and NFIDCs to assist distribution to beneficiaries and shuns commercial displacements.

### Why Kenya initiated FEPA

Economic Partnership Agreements (EPA) sprung from continued criticism that the non-reciprocal and discriminating preferential trade agreements offered to African, Caribbean and Pacific countries by European Union (EU) countries are incompatible with WTO rules. Based on the Cotonou Agreement, and in consultation with the East African Community (EAC) partner states, Kenya agreed to form the EAC Economic Partnership Agreement configuration. This was to enable negotiations with the EU as a bloc while preserving their

customs union. The EAC as a customs union therefore initiated the Framework Agreement for establishing Economic Partnership Agreement (FEPA) with the EU in 2007.

Kenya aims at securing access to the EU export market upon expiry of the ACP/EU preferential trade arrangement in December 2007. The EU constitutes the second biggest export market for Kenya after COMESA. As Kenya's leading market for horticultural products the EU accounted for 26.4 per cent of exports in 2008. This trade has boosted economic development, creating over 1.5 million jobs and over Sh70 billion worth of investments in the horticulture and fisheries sectors.

In signing the FEPA, the EAC offered to liberalize 82.6 per cent of its trade with the EU, 65.4 per cent of which is already zero-rated under the customs union. This has left 17.2 per cent of total trade for effective liberalization to be done on a phase-down basis within a period of 25 years. Further 17.4 per cent of the products are classified as sensitive to protect agriculture and infant industry.

### Agricultural policy goals

Over the years agricultural policies have been government decisions to influence the level and stability

of input and output prices alongside public investments that affect agricultural production costs and revenues and allocation of resources. Overall, improved agricultural production is key to poverty reduction.

In order to overcome various problems identified in the agricultural sector in the 1990s, the Kenyan government developed the Strategy for Revitalizing Agriculture (SRA) under the Economic Recovery Strategy (ERS). The SRA aimed to achieve the following goals:

- Reviewing and harmonizing the legal, regulatory and institutional framework;
- Improving delivery of research, extension and advisory support services;
- Restructuring non-core functions of parastatals and ministries to ensure efficiency, accountability and effectiveness;
- Increasing access to quality farm inputs and financial services;
- Formulating food security programmes, and
- Improving access to markets for example rural roads and internal taxes.

These measures were successfully implemented until 2007 when the Economic Recovery Strategy for Wealth and Employment Creation was succeeded by the development blueprint, Vision 2030. Agriculture and livestock are identified among the six priority sectors likely to raise the country's gross domestic product through export earnings.

### Vision 2030

Kenya intends to apply five key strategies to tackle challenges facing agriculture: reforms, productivity, land use, markets and value addition

- Reforms: Reforming key organizations like co-

operatives, regulatory bodies and research institutions to improve their performance;

- Productivity: Provision of widely accessible inputs and services to farmers and pastoralists, including the reduction in fertilizer costs, expansion of irrigation, seed improvement and livestock development;
- Land use: Proper land use to ensure better utilization of high and medium potential lands, and benefit from the provisions of the Green Box as discussed above;
- Focus on ASALs: Developing arid and semi-arid lands (ASALs) for both crops and livestock production to benefit from WTO Blue box subsidies, and
- Marketing: Value addition to commodities through processing, packaging and branding for increased incomes to producers and processors.

### Promoting agro-industry

The implementation of WTO requirements has setbacks like uncontrolled imports. These have resulted in depressed incentives to farmers, most recently in the milk and maize subsectors. Besides, liberalization occasions reduced expenditure in the agricultural sector, hence poor service delivery as extension services and research are affected. This has partly fueled food insecurity.

Market access rules are key to increasing export volumes for agricultural and agro-processed products.

Kenya and other developing countries should be allowed to export products in the form that yields maximum returns. Processing and value addition will promote the growth of agro-based industries. Similarly, a reduction in export subsidies on agricultural products will ensure imports do not depress domestic prices.

56<sup>TH</sup> COMMONWEALTH  
PARLIAMETARY  
CONFERENCE  
NAIROBI, KENYA  
10-19 SEPTEMBER 2010

*“PARLIAMET AND DEVELOPMENT IN  
THE 21<sup>ST</sup> CENTURY: THUS FAR AND  
BEYOND”*





